

RESOLUTION No. 2018-01

PORT LUDLOW DRAINAGE DISTRICT
Jefferson County, Washington
P.O. Box 65261, Port Ludlow, WA 98365

A RESOLUTION OF THE PORT LUDLOW DRAINAGE DISTRICT, REVISING ITS POLICIES AND PROCEDURES RELATING TO THE PUBLIC RECORDS ACT (CHAPTER 42.56 RCW) FOR CONSISTENCY WITH LEGISLATIVE CHANGES TO THE ACT AND ESTABLISHING DEFAULT COSTS FOR RECORDS PROVIDED UNDER THE ACT

WHEREAS, the Public Records Act, chapter 42.56 of the Revised Code of Washington (the "PRA"), requires government agencies to adopt rules of procedure consistent with the intent of the PRA, to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with essential governmental functions; and

WHEREAS, in 2017 the Washington State legislature passed HB 1594 and HB 1595 amending certain provisions of the PRA; and

WHEREAS, the Port Ludlow Drainage District Board of Commissioners desires to update its Public Records Policies and Procedures for consistency with the recent amendments and to adopt the default costs for records established by statute;

NOW, THEREFORE, BE IT RESOLVED as follows:


1. The Port Ludlow Drainage District Board of Commissioners hereby revises the District's Public Records Policies and Procedures as shown on Attachment A and incorporated herein by this reference.

2. The Port Ludlow Drainage District Board of Commissioners finds that calculating actual costs of records provided under the PRA would be unduly burdensome because the District does not have the resources to conduct a study to determine all its actual copying costs and through the 2017 legislative process the public and requestors have commented on and been informed of authorized fees and costs, including electronic records, provided in RCW 42.56.120. Therefore, the Port Ludlow Drainage District Board of Commissioners hereby adopts the statutory default fees set forth in the PRA, and the additional fees set forth in the attached Policies and Procedures.

PASSED at the Regular Meeting of the Port Ludlow Drainage District Board of Commissioners this 8th day of February, 2018.



Don Forbes, Chair, Commissioner 2



Katie Smith, Commissioner 1



Deborah Helleson, Commissioner 3

Attachment A
to Resolution 2018-01

Public Records Policies and Procedures

The Port Ludlow Drainage District is required by RCW 42.56.100 to adopt and enforce reasonable rules and regulations, consistent with the intent of the Washington State Public Records Act (PRA), codified in *Chapter 42.56 RCW* and the Model Rules of *chapter 44-14 WAC*, and to provide access to public records, protect public records from damage and disorganization and to prevent excessive interference with other essential functions of the District. The District is also required to protect certain public records from disclosure subject to various legal exemptions.

This PRA policy establishes the procedures the Port Ludlow Drainage District will follow to provide for the fullest assistance to requestors including the most timely possible action on requests, while protecting public records from damage and preventing “excessive interference with other essential agency functions.” *RCW 42.56.100*.

The District is required to respond to public records requests pursuant to Chapter 42.56 RCW. The District is not required to respond to questions, do research, or to give information that is not the subject of an identifiable public record.

Except where these guidelines are mandated by statute, the guidelines in this policy are discretionary and advisory only and shall not impose any affirmative duty on the District. The District reserves the right to apply and interpret this policy as it sees fit, and to revise or change the policy at any time. Failure to comply with any provision of these rules shall not result in any liability imposed upon the District other than required in The Act.

DEFINITIONS

1. “The Port Ludlow Drainage District” and **“The District”** includes any office, department, division, bureau, board, commission, or agency of the Port Ludlow Drainage District. *RCW 42.56.010(1)*.

2. “Public Record” includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the Port Ludlow Drainage District regardless of physical form or characteristics. This definition does not include records that are not otherwise required to be retained by the District and are held by volunteers who do not serve in an administrative or supervisory capacity. *RCW 42.56.010(2)*.

3. “Writing” means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, on all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. *RCW 42.56.010(3)*.

4. **“Identifiable record”** means an identifiable record is one in existence at the time the records request is made and that District staff can locate after an objectively reasonable search.

5. **“Exempt record”** includes all agency records that are specifically exempted or prohibited from disclosure by state or federal law, either directly in the PRA or other statutes. For information related to Public Record Exemptions please see Municipal Research Service Center’s (MRSC) publication “Public Records Act for Washington Cities, Counties and Special Purpose Districts” on the District’s website under Public Records Requests.

RESPONSIBILITY

Public Records Officer: The Port Ludlow Drainage District’s Public Records Officer is the Commissioner serving as Chair of the Board. Other District Commissioners or staff members may process public records requests, as needs require. The Public Records Officer will maintain or cause to be maintained a log of all public records requests submitted to and processed by the District. The log will include at least the following information: the identity of the requestor; the date the request was received, the text of the original request, a description of the records redacted or withheld and the reasons for redacting and withholding, and the date of the final disposition of the request.

District Attorney: The District’s attorney will provide legal advice to the Public Records Officer or designee on those occasions when such advice is sought.

Offices: Given the special purpose of the District, the District does not maintain daily office hours or full-time employees. As such, requests may be made to the Public Records Officer by U.S. mail, electronic mail or in person when the District holds its monthly meeting on the second Thursday morning of each month.

The Port Ludlow Drainage District’s mailing address for requesting records is:

P.O. Box 65261
Port Ludlow, WA 98365

Records may also be requested using the following e-mail:

commish@pldd.org

The location for viewing records is:

Training Room, Port Ludlow Fire and Rescue Station (PLFR)
7650 Oak Bay Road
Port Ludlow, Washington 98365
Second Thursday morning of each Month, from 10:00 - 11:30 AM or otherwise by appointment.

PROCEDURE

1. How to Request Records: Any person requesting access to general public records or seeking assistance in making such a request must contact the Public Records Officer at the mailing address or email address set forth above, or in person at the PLFR Station identified above on the second Thursday of the month during the hours of 10:00 - 11:30 AM.

2. Request Format: While there is no specific required format for a public records request, a requestor must provide the District with reasonable notice that the request being made is for public records. If a request is contained in a larger document unrelated to a public records request, the requestor should point out the public records request by labeling the front page of the document as containing a public records request or otherwise calling the request to the attention of the Public Records Office to facilitate timely response to the request.

The District encourages that all requests for public records be made in writing on a *Request for Public Records Form*, which is available on the Port Ludlow Drainage District's website www.pldd.org. Requests may be submitted in person, orally, by mail or email. Mail and email will be considered received on the date the form is stamped "received", not on the date sent. Requests should include the following information:

- A. The requestor's name, mailing address, and contact phone number;
- B. The date of the request;
- C. The nature of the request, including a detailed description of the public record(s) adequate for the District to be able to locate the records;
- D. A statement regarding whether the records are being requested for a commercial purpose (RCW 42.56.070(9)); and
- E. Whether the requestor desires copies, or to inspect the requested records.

Requests for public records made orally must be made during normal meeting hours. Requests for public records made orally must be confirmed by the Public Records Officer.

A variety of records are available on the District's website at www.pldd.org. Requestors are encouraged to view records available on the website prior to submitting a records request.

3. Response to Requests: The District will process requests in the most efficient matter as the Public Records Officer (defined above) deems appropriate. The Public Records Officer may ask a requestor to prioritize the records he or she is requesting so that the most important records may be provided first.

Within five (5) business days of receiving a request, the District will do one or more of the following:

- A. Provide the record;
- B. Provide an Internet address and link on the District's website to the specific records requested, except that if the requestor notifies the District that he or she cannot access the records through the Internet, then the District will provide access to copies;
- C. Acknowledge that the District has received the request and provide a reasonable estimate of when records will be available;

- D. Acknowledge that the District has received the request and ask for clarification for a request that is unclear, and providing, to the greatest extent possible, a reasonable estimate of the time the District will require to process those portions of the request that are clear; or
- E. Deny the request. Denials must be accompanied by a written statement of the specific reasons for denial.

Additional time to respond may be based on the need to clarify the intent of the request, to locate and assemble the records, to redact confidential or exempt information, to prepare a withholding index, to notify third parties or agencies affected by the request and provide such parties/agencies with the opportunity to seek a court order preventing disclosure where appropriate, and/or to consult with the District Attorney about whether the records are exempt from disclosure. The Public Records Officer should briefly explain the basis for the time estimated to respond. Should an extension of time be necessary to fulfill the request, the Public Records officer will provide a revised estimate and explain the changed circumstances that make it necessary.

The District may receive requests for public records identified in terms of “any and all documents related to” or similar language. If the requestor is unable or unwilling to help narrow the scope of the documents being sought in order to expedite the District’s response and/or reduce the volume of potentially responsive documents, the Public Records Officer is allowed to err on the side of producing more rather than fewer documents in response to such a broad, general request. District staff shall not be obligated to interpret such a broad, general request in order to decipher which specific documents may be of interest to the requestor and the PRA does not allow a requestor to search through the District’s files for records which cannot be identified or described to the District.

A request for all or substantially all records prepared, owned, used or retained by the District is not a valid request for identifiable records. In addition, the District may deny a bot request that is one of multiple requests from the same requestor to the District within a 24-hour period if the District establishes that responding to the multiple requests would cause excessive interference with other essential functions of the District. For purposes of this subsection, “bot request” means a request for public records that the District reasonably believes was automatically generated by a computer program or script.

The District is not authorized to provide lists of individuals for commercial purposes. The Public Records Officer may also seek sufficient information to determine if another statute or court order may prohibit disclosure. If the requestor fails to clarify an unclear request within 15 working days, the District will treat the request as having been withdrawn. *RCW 42.56.520*.

If the public record contains personal information that identifies an individual or organization other than the subject of the requested public record, the District may notify that individual or organization to allow the party to seek relief pursuant to *RCW 42.56.540*. Such relief may include a court injunction prohibiting release of the record because such examination would not be in the public interest and would substantially and irreparably damage any person or vital governmental function. The District may take the above into account when providing an estimate of when the records will be available. Nothing in this policy is intended to, nor does it, create any right to such notice.

When a request uses a phrase such as “all records relating to”, the Public Records Officer may interpret the request to be for records which directly and fairly address the topic. The District may respond to a request to provide access to a public record by providing the requestor with a link to the District’s website containing an electronic copy of that record if it can be determined that the requestor has internet access and the requestor agrees that the request has been satisfied.

When the requestor has found the records he or she is seeking, the requestor should advise the Public Records Officer that the requested records have been provided and the remainder of the request may be cancelled.

4. Providing Records in Installments: When the request is for a large number of records, the District may provide access for inspection and copying in partial installments if reasonably determined that it would be practical to provide the records in that way. If the requestor does not contact the Public Records Officer within thirty (30) working days to arrange for the review of the first installment, the District may deem the request abandoned and may stop fulfilling the remainder of the request. The District may prioritize record requests received after commencing to fulfill the large request. *RCW 42.56.120.*

5. Electronic Records: The process for requesting electronic public records is the same as the process for requesting paper public records.

When a requestor requests records in an electronic format, if technically feasible, the Public Records Officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the District and is generally commercially available; or will provide the records in a format that is reasonably translatable from the format in which the agency keeps the record. With the consent of the requestor, the District may provide customized access as set forth in Section 9(E) below.

6. No Duty to Create Records: This policy does not require the District to answer written questions, summarize data or information, create new public records, or provide information in a format that is different from original public records; however, the District may in its discretion, create such a new record to fulfill the request where it may be easier for the District to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request. *WAC 44-14-04003(5).*

7. No Duty to Provide Information: This policy does not require the District to respond to requests for information, research, opinions or advice. Requests for information, research, opinions, advice, or similar requests are outside the scope of the Public Records Act.

8. No Duty to Supplement Responses: The District is not obligated to hold current records requests open to respond to requests for records that may be created in the future. A new request must be made to obtain later-created public records.

9. Costs for Obtaining Copies of Records:

A. There is no cost to inspect records.

B. The cost for photocopying, scanning or otherwise producing public records shall be:

- Photocopies (up to 11" x 17") \$0.15 per page
- Scanning (up to 11" x 17") \$0.10 per page
- Transmitting copies:
 - \$0.05 for every four files attached to an email, uploaded to a cloud storage service, or delivered through other electronic means
 - \$0.10 per gigabyte for transmission of electronic records
- Actual cost of any digital storage media provided by the District
- Actual cost of copies as invoiced by an outside vendor

C. Mailing. The District may also charge actual costs of mailing, including the cost of the shipping container.

D. Alternative Fee Arrangement. As an alternative to any fees imposed in the District's fee schedule, the District may charge a flat fee of \$2.00 if it reasonably estimates that the total fees otherwise incurred would exceed \$2.00. For a request processed in installments, this flat fee covers the cost of all installments.

E. Customized Service Charge. In addition to the fees set forth above, the District may charge a customized service charge if the District reasonably estimates that responding to the request will require special information technology expertise to prepare data compilations or provide customized electronic access services, provided that the information technology expertise will not provide a service that the District would also use for other purposes. This charge cannot exceed the actual cost to the District of the services, and the District must provide a notice to the requestor before imposing that charge that explains the reasons for the charge, the specific services provided, and the estimated amount of the charge. The notice must also give the requestor an opportunity to modify his or her request to avoid the charge.

F. Estimate of Charges. Before incurring any charges associated with a request, a requestor may ask and the District will provide an estimate of total applicable charges before any charges incurred. The District will provide the requestor an opportunity to revise his or her request in order to avoid or reduce applicable charges.

G. Payment. Payment may be made by cash, check or money order to the District.

H. Fee Waiver. The District has the discretion to waive charges associated with requests. For administrative convenience, many agencies waive copying charges for small requests.

10. Deposit: Before beginning to make the copies, the public records officer or designee may require a deposit of up to 10 percent of the estimated costs of producing all the records selected by the requestor, including any copying, scanning, transmission and customized service charge. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. Any unused deposit must be refunded to the requestor. *RCW 42.56.120*.

11. Availability of Public Records: Public records are available for inspection or copying at the District Meeting Room address listed above during regular meeting hours of 10:00 - 11:30 AM on the second Thursday of each month, excluding legal holidays, or otherwise by appointment. District personnel and the requestor may make mutually agreeable arrangements for time(s) of inspection and copying.

To the extent possible given other demands for space and staff time, the Public Records Officer shall promptly provide space to inspect public records at the District's monthly meeting location. The District deems it necessary, in order to comply with the PRA's mandate to protect public records, to require that inspections of public records be conducted in the presence of the Public Records Officer or designated staff. The District will make every effort to provide staff to oversee the expeditious inspection of public records without unduly compromising or unreasonably interfering with the essential functions of the District. All assistance necessary to help requestors locate and inspect particular responsive records shall be provided by the Public Records Officer or designated staff, provided that the giving of such assistance does not unreasonably disrupt the operations of the District or other duties of any assisting employee(s) in other District departments. In accommodating a request for public records inspection, the District may consider the size of the request, the ease with which the requested records can be made available for inspection, and special accommodations requested by the requestor necessary in order to inspect the records, the availability (schedule) of the requestor to conduct the inspection, the availability of District staff to observe the inspection, the time constraints on staff availability imposed by other current District business, and any other relevant circumstance.

After inspection is complete, the requestor shall indicate which documents he/she wishes to have copied using a non-permanent method of marking the desired records as approved by the Public Records officer. The Public Records Officer will arrange for copying.

12. Preservation of Public Records. No member of the public may remove a public record from the District without the Public Records Officer's permission. No member of the public may remove a public record from a viewing area, disassemble, or alter, fold, mark, deface, tear, damage or destroy any public record. Public Records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by District staff. Copies of public records may be copied only on copying machines of the District unless other arrangements are made by the Public Records Officer. No food or drink will be permitted during the inspection of public records. Access to file cabinets, shelves, vaults and other District storage areas is restricted to authorized District staff.

13. Organization of Public Records: The District finds that maintaining an index as provided in RCW 42.56.070(3) for use by the public would be unduly burdensome and would interfere with agency operations given the volume, various locations, and types of public records received, generated and otherwise acquired by the District. RCW 42.56.070(4) & Resolution No. 2017-04. Notwithstanding the foregoing, the District will maintain its records in a reasonably organized manner and take reasonable actions to protect records from damage and disorganization.

14. Closing Abandoned or Unpaid Requests: If the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records within thirty (30) days of notice that the records are available for inspection, or fails to pay the deposit, installment payment or final payment for the requested copies, District personnel will close the request. District personnel will document closure of the request and the conditions that led to closure. *RCW 42.56.120.*

15. Records Exempt from Public Disclosure: The District is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state law or federal statute or regulation. The District is prohibited by statute from disclosing lists of individuals for commercial purposes. *RCW 42.56.070(9)*.

The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. *RCW 42.56.230 through 42.56.480* contains a large number of exemptions from public inspection and copying. Other statutes outside the Public Records Act may prohibit and exempt disclosure of certain documents or information. *RCW 42.56.070(1)*.

16. Denial of Request Due to Exemption: All denials of requests for public records will be accompanied by a written statement specifying the reason(s) for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. *RCW 42.56.210(3)*.

17. Retention of Records: The District is not required to retain all records it creates or uses. However, the District will follow *RCW Chapter 40.14*, Preservation and Destruction of Public Records, in the retention and destruction of public records. The Secretary of State, State Archives Committee approves a general retention schedule for local agency records (including cities) that is common to most agencies. Individual agencies may seek approval from the Local Records Committee for retention schedules specific to their agency or that, due to their particular business needs, must be kept longer than provided in the general schedule. The retention schedule for local agencies is available at www.secstate.wa.gov/archives. Retention schedules for documents vary based on the content of the record. *WAC 44-14-03005*.

18. Loss of Right to Inspect: Inspection shall be denied and the records withdrawn by the Public Records Officer if the requestor, when reviewing the records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the District.

19. Disclaimer of Liability: Neither the District nor any officer, employee, official or custodian shall be liable, or shall a cause of action exist, for any loss or damage based upon a release of Public Records if the person releasing the records acted in good faith in attempting to comply with this policy. This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as “shall”, nothing in this policy is intended to impose mandatory duties on the District beyond those imposed by state and federal law.