

**WEST SOUND UTILITY DISTRICT
RESOLUTION NO. 515-14**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF WEST SOUND UTILITY DISTRICT ESTABLISHING THE POLICY
FOR PUBLIC INSPECTION AND COPYING OF
DISTRICT PUBLIC RECORDS**

WHEREAS, Ch.42.56 RCW, Public Records Act and Ch. 44-14 WAC establish a framework by which local government shall provide access to public records, protect public records from damage or disorganization, and assist requesters who seek access to public records; and

WHEREAS, the District's Board of Commissioners fully support the policies and requirements of Ch. 42.56 RCW which promote full disclosure of documents maintained by a District unless the documents are specifically exempt from disclosure and desires to replace Resolution 453-13 to better support those policies and requirements; **NOW, THEREFORE**,

THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT HEREBY RESOLVES:

Section 1. General Policy and Procedures to Request Public Records.

- A. This Chapter constitutes West Sound Utility District's Rules of Procedure for compliance with the Public Records Act, Ch. 42.56 RCW, incorporated herein by reference as if fully set forth. The District's Rules of Procedure may be supplemented from time to time by administrative rules issued by the General Manager.
- B. The District's policy is to promptly respond to requests for public records and to provide the fullest assistance to requesters. In order to facilitate a prompt response, requesters should submit a request in writing using the District's form, or via letter, email or fax. The District cannot guarantee that a verbal request for records will be interpreted as a request for public records. Requesters should make a reasonable effort to identify or describe the records being sought by topic or subject matter, and including, for example a date (if known), or a date range.
- C. Public records are generally available for inspection and copying Monday through Friday, from 7:30 A.M. to 4:00 P.M., excluding legal holidays. A requester that seeks to inspect nonexempt records rather than to receive copies of records will be allowed to do so under supervision, to prevent removal, destruction or disorganization of records. Requesters are prohibited from removing records from District offices. The District shall make its facilities available to any person for the copying of public records except when and to the extent doing so would unreasonably disrupt the operations of the District. Requesters are prohibited from utilizing computers issued to District staff to inspect public records, unless the District determines to provide a designated public computer for that purpose.
- An unreasonable disruption of the operations of the District occurs if a request for records is large and would require use of city equipment for extended periods of time and thereby disrupt the ability of District staff to utilize that same equipment for the regular conduct

of District business. An unreasonable disruption of the operations of the District occurs if a requester would need access to District equipment that is located within District facilities that are otherwise not available to the public.

- The District's Assistant Finance Manager shall have discretion to determine whether providing access to District equipment for copying records would unreasonably disrupt the operations of the District, and if so, how to reasonably accommodate the requester. Any use of the District's equipment requires payment according to the fees established in this chapter, whether the use of the equipment is by District staff on behalf of a requester, or by the requester.

D. The District is not required by this chapter or the Public Records Act to create records in response to a records request; but, rather, is required to make a good faith and objectively reasonable search for identifiable public records.

E. The District may release records responsive to a request in installments. A decision to release records in installments may be made by the District Assistant Finance Manager if the request is for a large number of documents or when a portion of responsive records is more readily available than others. The District shall require a requester to make payment in full of each installment before District staff continues to process any subsequent installment. The District may require a requester to make payment of a deposit of ten percent (10%) of the estimated cost of the entire response prior to the District beginning a large copying project on behalf of a requester.

F. If, within thirty (30) days, a requester fails to inspect records retrieved in response to a request, or to pick up, inspect, and/or pay for an installment after being notified that an installment is ready for pick up or inspection, the District Assistant Finance Manager may discontinue the search for any remaining responsive records and close the request.

G. When the search for records has been completed, the District Assistant Finance Manager may provide notification to the requester that the search is considered complete and that the District intends to close the request.

H. If, after the District has informed the requester that it has provided responsive records, the District becomes aware of additional responsive records existing at the time of the request it will promptly inform the requester of the additional documents and provide them as soon as possible. However, a public records request is not continuing in nature. If a requester desires additional records created or obtained by the District after the date of the original request, the requester must submit a new request.

I. The District archives records that are inactive but are still within their retention period. Inactive, but archived records may be stored off-site. The District retains active records on-site. Records that have met their retention period are destroyed. If the records are determined to be of legal and/or historic value and must permanently retained, such records will be microfilmed and/or digitized and transferred into the keeping of the State Archivist.

J. The District is prohibited from disclosing a list of individuals for commercial purposes.

K. If the District receives a request for records that are scheduled for destruction the District shall not destroy the record until the request is fulfilled.

L. When a requester requests records in an electronic format, the Assistant Finance Manager 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 in a format that is reasonably translatable from the format in which the District keeps the record. The District is not required to provide redacted records electronically.

Section 2. Public Records Officer Designated; Contact Information; Records Request Form.

A. The Assistant Finance Manager is the designated public records officer for West Sound Utility District. The Assistant Finance Manager will oversee compliance with the Public Records Act and this chapter. The Assistant Finance Manager may delegate the responsibilities of processing records requests to other staff.

B. The Assistant Finance Manager may be contacted Monday through Friday, 7:30 A.M. to 4:00 P.M., at 2924 SE Lund Ave., Port Orchard, WA 98366; (360) 876-2545.

C. A requester may use the District's form to request public records located at www.wsud.us.

D. This request form may be submitted electronically as an email attachment or faxed to: (360) 876-2587, mailed to 2924 SE Lund Ave., Port Orchard, WA 98366, or personally delivered.

Section 3. Disclosure of public records.

Unless exempt from disclosure in whole or in part, public records shall be available for inspection and copying subject to Section 1C. The District reserves the right to respond to a request for public records within five (5) business days of receipt of a request.

Section 4. Definitions.

A. "Public record" means 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 District regardless of physical form or characteristics.

B. "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, and 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.

Section 5. Maintenance of Records by Assistant Finance Manager; Limited Index; Findings and Order that All-inclusive Index is Unduly Burdensome.

A. All District departments are responsible for maintaining records consistent with the State Archivist's guidelines. The Assistant Finance Manager maintains a limited index consisting of:

ordinances and resolutions of the District's Board of Commissioners; Board agenda materials; minutes of: Board study sessions, regular and special meetings of the Board; agenda materials of all Board of Commissioner's appointed advisory boards and commissions; minutes of the regular meetings of advisory boards and commissions; and all contracts, franchises, deeds, easements, and leases.

B. Findings. RCW 42.56.070(4) provides that an agency need not maintain the index required by RCW 42.56.070(3) if to do so would be unduly burdensome, but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome or would interfere with agency operations. Because the District is comprised of numerous departments, their divisions and subdivisions, many if not all of which maintain separate databases and/or systems for the indexing of public records, and because each department, its divisions and subdivisions maintain records which are diverse and specific to each department, and because the various departments within the District have not historically maintained the type of index described in RCW 42.56.070(3), the Board of Commissioners finds it would be unduly burdensome, if not physically impossible, to create or maintain either a historical or a current index of all the District's public records existing since the date of incorporation.

C. Order. Based on the findings in subsection B., above, the Board orders the following: that except for the records described in subsection A., above, no District department is required to create an all-inclusive index of records as required by RCW 42.56.070(3) because it is unduly burdensome and because the near-impossibility of creating and maintaining such an index would interfere with District operations. To the extent any department maintains an index of records such indexes shall be made available for inspection and copying.

Section 6. Exemptions.

A. The following shall be exempt from public inspection and copying:

1. All public records that fall within the exemptions set forth in Ch. 42.56 RCW; and
2. Any other public record which is exempt from disclosure under other state or federal law.

B. The exemptions from public disclosure set forth in this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

C. Inspection or copying of any specific records exempt under this section may be permitted if the Kitsap County Superior Court finds, after a hearing with notice thereof to every person interested and to the District, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

D. Appendix A contains a list of every law the District believes exempts or prohibits disclosure of specific information or records of the District. By providing this list, the District does not represent that every possible state or federal law has been included therein, and the District reserves the right

to exempt any record, or part thereof from disclosure according to any applicable state or federal law whether currently existing and not appearing on Appendix A, or according to any later-enacted state or federal law.

Section 7. Response to Records Request.

A. Persons wishing to inspect or copy District records shall first make such request to the Assistant Finance Manager or to the District department which maintains the requested records. If the requester does not know which department maintains the records, the request shall be made to the Assistant Finance Manager. The fullest assistance shall be provided promptly either by the Assistant Finance Manager or by the particular department maintaining the records. The provision of such assistance shall not unreasonably disrupt the normal operations of the Assistant Finance Manager, the Department or the assisting employee.

B. The Assistant Finance Manager or other District employee shall not distinguish among persons requesting records. Persons requesting records shall not be required to provide information as to the purpose for the request, except to establish whether the inspection or copying would violate RCW 42.56.270(9) or other statute or ordinance which exempts or prohibits disclosure of specific information or records to certain persons.

C. To the extent possible, and consistent with Chapter 42.56 RCW, the District shall promptly respond to a request for records.

D. Within five (5) business days of the date of receipt by the District of a written request for a record, the Assistant Finance Manager shall:

1. Provide the record; or provide an internet address and link on the District's web site to the specific records requested, except that if the requester notifies the District that he/she cannot access the records through the internet, the District shall provide copies of the record;
2. Acknowledge that the District has received the request and provide a reasonable estimate of the time the District will require to respond to the request. Additional time requires to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requests, to notify third persons or agencies affected by the request, or to determine whether any of the information is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the District may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the District need not respond to it.
3. Deny the public record request. Denials of requests shall be accompanied by a written statement of the specific reasons for denial.

E. If the Assistant Finance Manager determines that the document is exempt in part, but can be made available after redaction of exempt portions, the request shall be granted; provided that such exempt portions shall first be redacted. All documents redacted as exempt shall be accompanied

by an exemption log that provides a brief description of the document, and the legal reason justifying redaction of the record.

Section 8. Reimbursement for Copying Costs.

A. Copies of written records, maps, photographs including slides, audio tape recordings, video tape recordings, and disks shall be made and provided by the District upon request and payment of the actual cost of reproducing the same, including labor and mailing costs. Items that are copied by an outside vendor shall be subject to the vendor cost plus any mailing charges. The District may provide an internet address and link on the District's web site to the specific records requested. If a requester notifies the District that he or she cannot access records through the internet, the District shall provide copies of records sought by the requestor, shall make original records available to the requester, or may allow a requester to view copies of records using a designated public computer.

B. Fees. The following fee schedule shall be applied to the provision and copying of public records:

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|--|------------------------|
| Board, Committee Agendas & Minutes | No Charge |
| Preliminary Annual Budget | No Charge |
| Materials copied on the copier on letter, legal, or ledger size paper (includes agenda packet materials, ordinances, resolutions, public meeting minutes, contracts, etc.) | \$0.15 per page |
| Audio Recording Tapes | \$10.00 per audio tape |
| CD Disc, DVD Disc | \$1.50 per disc |
| Verbatim Transcripts (\$100.00 deposit when ordered) | Actual cost |
| GIS Aerial Mapping (11" x 17") | \$6.00 |

C. Where the request is for a certified copy, there shall be an additional charge as noted in subsection (B) of this section to cover the additional expense and time required for certification.

D. The Assistant Finance Manager may provide copies of District records at no charge to individuals or government agencies doing business with the District, if the Assistant Finance Manager determines such action is in the best interest of the District.

Section 8. Decision on Public Records Requests; Procedure for Review of Decision; Final Action for Purposes of Judicial Review.

A decision by the Assistant Finance Manager denying inspection or copying of records in whole or in part shall be promptly reviewed by the District's Attorney. Such review shall be deemed complete at the end of the second business day following the denial of inspection or copying in whole or in part and shall constitute final District action for the purposes of judicial review. The requester shall be notified by mail of the decision to grant or deny the request.

Section 9. Disclosure Prohibited by Other Statutes.

The District shall not be required by this resolution to permit public inspection and copying of any record to the extent public disclosure of the record is prohibited, restricted or limited by any State or federal statute or regulation including or by case law, including but not limited to, Chapter 10.97 RCW, the Washington State Criminal Records Privacy Act, Chapter 13.50 RCW, relating to release of records by juvenile justice or care agencies, or Chapter 46.52 RCW, relating to accident reports and abandoned vehicles.

Section 10. Administrative Rules.

The General Manager may issue administrative rules for the implementation of this chapter.

Section 11. Severability.


If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 13. Termination of Previous Resolutions.

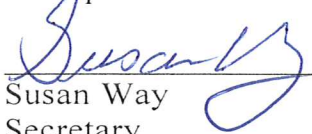
West Sound Utility District Resolution 453-13 is hereby terminated and shall have no further legal force or effect.

APPROVED and ADOPTED by the Board of Commissioners of West Sound Utility District
at a regular scheduled meeting on September 23, 2014.

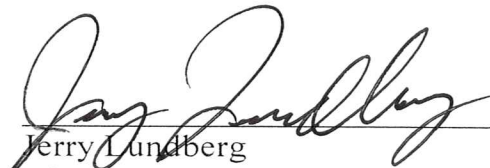
WEST SOUND UTILITY DISTRICT
Kitsap County, Washington



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Chairperson



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Secretary



Jerry Lundberg
Vice Chairperson