

HIGHLANDS UTILITY DISTRICT
KING COUNTY, WASHINGTON

RESOLUTION NO. 2024.05

A RESOLUTION of the Board of Commissioners of the Highlands Utility District, King County, Washington, regarding compliance with the Public Records Act, Chapter 42.56 RCW.

WHEREAS, the Public Records Act, RCW 42.56.040 and .100 and WAC 44-14-01002 call for a local agency to adopt and enforce reasonable rules and regulations to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency; and

WHEREAS, on May 18, 2016, the District Board of Commissioners (“Board”) adopted Resolution No. 2016.01, approving a Public Records Policy, a Records Retention Policy and appointing the District’s Public Records Officer; and

WHEREAS, the District Board desires to adopt an updated Public Records Policy to reflect legislative changes to the Public Records Act and judicial interpretations of the same by Washington appellate courts;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HIGHLANDS UTILITY DISTRICT, KING COUNTY, WASHINGTON, as follows:

Section 1. Public Records Policy Adopted. Pursuant to RCW 42.56.040 and .100 and WAC 44-14-01002, the Public Records Policy attached to this Resolution as Exhibit A is hereby adopted.

Section 2. Findings and Determinations under RCW 42.56.120. The Board finds and determines that calculating the actual cost of providing public records would be unduly burdensome, for the reasons set out above. It is more cost efficient, expeditious, and in the public interest for the Board to adopt the Legislature’s approved fees and costs for most of the HUD’s records, as authorized in RCW 42.56.120(2)(b) and set forth in the fee schedule in Section 9.2 of the Public Records Policy attached as Exhibit A.

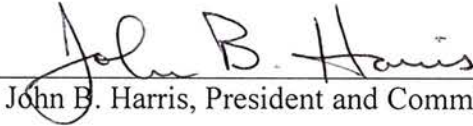
Section 3. Repealer. The Public Records Policy adopted in the form attached to Resolution No. 2016.01 is repealed in its entirety and has no further force or effect.

Section 4. General Authorization and Ratification. The District Administrator is authorized to take any further action necessary or advisable to implement this resolution.

Section 5. Effective Date. This resolution takes effect from and after its adoption.

ADOPTED by the Board of Commissioners of Highlands Utility District, King County, Washington, at an open public meeting thereof, this 11th day of December, 2024.

HIGHLANDS UTILITY DISTRICT



John B. Harris, President and Commissioner



L. David Hanower,
Commissioner



Karl V. D'Ambrosio,
Commissioner

ATTEST:



Karl V. D'Ambrosio, Board Secretary

HIGHLANDS UTILITY DISTRICT PUBLIC RECORDS POLICY

1. DISTRICT AND PURPOSE

1.1 Highlands Utility District (the "District")¹ is an agency under the Washington Public Records Act, Chapter 42.56 RCW ("PRA"). It is the policy of the District to release District records consistent with the procedures in the PRA and any other applicable federal or state law.

1.2 This policy establishes the procedures the District will follow in order to provide full access to public records. This policy provides information to persons requesting access to the District's public records and establishes request processes for both requesters and District staff.

1.3 The purposes of this policy are: (1) to describe the District's organization and (2) to ensure that the District complies with the PRA. Except where these guidelines are mandated by statute, the guidelines in this policy are discretionary and advisory only and do not impose any affirmative duty on the District. The District reserves the right to apply and interpret this policy within its sole discretion and to revise or change the policy at any time.

1.4 This policy is available at the District's main office and posted on the District's website.

2. AGENCY DESCRIPTION

Highlands Utility District is a Washington water-sewer district and municipal corporation initially formed in 1966. The District provides sanitary sewer, domestic water and storm water services within HSD's service boundaries. The District's main office is located at The Highlands, 181 NW Highlands Drive, Shoreline, WA 98177.

3. PUBLIC RECORDS OFFICER

3.1 The District Administrator, or the District Administrator's designee, is the District's Public Records Officer.

3.2 The Public Records Officer oversees the District's compliance with the PRA and this policy. The Public Records Officer may delegate the responsibilities of processing requests to others, including consultants. Accordingly, any reference in this Policy to the "Public Records Officer" means the Public Records Officer or applicable designee.

¹ The District was originally formed as the "Highlands Sewer District."

3.3 The Public Records Officer will provide full assistance to requesters, ensure that public records are protected from damage, disorganization, and improper disclosure, and prevent the fulfillment of any PRA request from causing excessive interference with the District's essential functions.

4. AVAILABILITY OF PUBLIC RECORDS

4.1 Because the District does not have employees and the duties of its consultants often require them to be out of the office, the District does not maintain regular or "customary" office hours for inspection and copying of records. In order to ensure someone is available to provide assistance to requesters, records will be made available for inspection and/or copying at the District's main office by appointment at a mutually convenient time.

4.2 Requesters must pay for copies, as provided in this policy and in Chapter 42.56 RCW. Many commonly requested District documents are available free of charge on the District's website at <https://www.highlandsutility.org/>.

5. MAKING A REQUEST FOR PUBLIC RECORDS

5.1 PRA requesters, or those seeking assistance in making a PRA request, are directed to contact:

Public Records Officer
Highlands Utility District
The Highlands
181 NW Highland Drive
Shoreline, WA 98177
Website: <https://www.highlandsutility.org/contact>
E-mail: PublicRecordsRequest@highlandsutility.org

The District directs all persons requesting the District's public records to make their requests in writing to the Public Records Officer. In order to aid timely disclosure, requests should include the following information:

- a. The name, address and email address of the requester;
- b. The date of the request;
- c. A statement that records are being requested under the Public Records Act, along with a detailed description of the public records being requested;
- d. Whether the requester wants copies, or wants to inspect the requested records;
- e. If copies are requested, the address where copies should be mailed;
- f. A statement regarding whether the records requested are for commercial purposes; and
- g. The signature of the requester.

The use of a District request form is not mandatory, but will facilitate response to a request.

5.4 The Public Records Officer will confirm in writing (e-mail allowed) all oral requests made in person or by telephone, indicating receipt of the information and the substance of the request.

6. PROCESSING PUBLIC RECORDS REQUESTS

6.1 Initial Response

Within five (5) business days of receipt of the request, the Public Records Officer will do one or more of the following:

- a. Notify the requester in writing that the documents are available;
- b. Send copies to the requester upon receipt or waiver of copying fees, with a letter acknowledging or closing the request as appropriate;
- c. Send a written communication acknowledging the request and providing a reasonable estimate of when records or an installment of records will be available (the Public Records Officer may later revise this estimate as needed by notifying the requester);
- d. Send a written communication acknowledging the request and asking the requester to provide clarification for a request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of time the District will require to respond to the request if it is not clarified; or
- e. Send a letter denying the request, including, if responsive records exist, an exemption log or other appropriate explanation consistent with this Policy.

Response letters that close a request (whether by providing all responsive records or denying the request), will include closing language consistent with this Policy (see Section 6.11) and the PRA.

The District reserves the right to direct requesters to the District website for commonly requested documents. The Public Records Officer will assist any requester who cannot easily access the internet.

If the District does not respond to a public records request in writing within five business days of receipt of the request, the requester should contact the Public Records Officer to determine the reason for the failure to respond.

6.2 Reasons for Additional Time to Respond

The District may require additional time to respond to a request based on the need to do any of the following:

- a. Clarify what documents are being sought in the request;
- b. Locate and assemble the requested records;
- c. Use the requested record(s) in the District's normal course of business;
- d. Notify third persons or agencies affected by the request;
- e. Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request; or

- f. Any other necessary purpose identified by the Public Records Officer and authorized by law.

The District has limited resources. The Public Record Officer serves in other capacities, in addition to PRA responsibilities. The District will respond within five (5) business days of requests for District records. However, the production of records in response to a request may be delayed due to the extent of the request and limitations on staff time. In the normal course, the District will spend no more than 4 hours per week in responding to records requests to the District. The District may respond to later requests before earlier requests for records if the later-requested records can be more easily located and made available. This may mean that responses to requests for District records may be serial and extend over a period of time.

This above list and procedures are not exhaustive, and the District reserves the right to require additional time as permitted by the PRA or other applicable federal or state law.

6.3 Unclear and Invalid Requests

In acknowledging receipt of a request that is unclear or ambiguous, the District may ask the requester to clarify what records the requester is seeking. Such clarification may be requested and provided by telephone, but will then be confirmed in writing by the Public Records Officer. If the requester fails to clarify the request, and the entire request is unclear, the District may deem the request abandoned and need not respond to it. The District will respond to any portions of the request that are clear.

Requests must be for identifiable public records. A request for all or substantially all District records will not be considered a valid request for identifiable records.

6.4 Notice to Third Parties

In the event that the requested records contain personal information that identifies an individual or organization or other information that may affect the rights of others, the Public Records Officer may provide notice to those individuals or organizations or such others whose rights may be affected by disclosure. The District may send this notice to the individual or organization if releasing the personal information could damage the individual or organization, or government operations, or is not in the best interests of the public. The notice to the affected persons will include a copy of the records request, the date the District intends to release the record, and how the individual or organization can prevent the record's release. The District will release such records by the specified date if no one objects or the contacted party does not respond by the specified date. This procedure does not create any rights to third parties to such notice.

6.5 Records Exempt From Disclosure

Some records are exempt from disclosure, in whole or in part, based on the PRA, the laws and regulations identified in Appendix A, or under other state or federal law or regulation. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public

Records Officer will redact the exempt portions and provide the nonexempt portions. When applying an exemption to redact or withhold a record, the Public Records Officer will include a statement of the specific exemption(s) authorizing the redaction or withholding of the record and a brief explanation of how the exemption(s) applies to the information redacted or the record withheld. An exemption log may be provided to the requester to assist in identifying and explaining the basis for specific redactions or withholdings.

Pursuant to the PRA, the District reserves the right to seek to enjoin the examination of any specific record if the District determines that the examination is clearly not in the public interest and will substantially and irreparably damage any person or will substantially and irreparably damage vital governmental functions.

6.6 Providing Electronic Records

When records are requested in an electronic format, the Public Records Officer will provide the nonexempt records, or portions of the records that are reasonably locatable, in an electronic format that is used by the District, or in a format that is reasonably translatable from the format in which the District keeps the records. Fees associated with electronic records are addressed in Section 9, below.

6.7 Customized Service Charges

The District may charge a customized service charge for the actual costs incurred for requests requiring information technology expertise to prepare data compilations or incurred to provide customized electronic access services when such compilations and customized access services are not used by the agency for other agency purposes.

In the event the District believes the request requires such expertise or customization, the District will notify the requester of the customized service charge, explain why the charge applies, describe the specific expertise needed, and provide a reasonable estimate of the cost of the charge. The notice will provide the requester an opportunity to amend the request to avoid the customized service charge.

6.8 Failure to Claim or Inspect Records

The requester must claim or inspect assembled records within thirty (30) days of the District's notification to the requester that the records are available. Where records are being provided to the requester electronically through a file-sharing platform or records request portal, the records are "claimed" when the requester downloads the records. The District will notify the requester in writing of this requirement to download, inspect, or otherwise claim the records as applicable and, in the case of inspection, direct the requester to contact the District to make arrangements to review the records. If the requester fails to claim or review the records within the 30-day period or seek an extension of the 30-day period, the District may consider the request abandoned and close the request.

6.9 Protection of Records

In order to protect the District's public records from damage or disorganization as required by the PRA, the District shall use the following procedures and practices:

- a. No public records may be removed from the District's main office without the Public Records Officer's permission;
- b. Inspection of any public records will be conducted in the presence of the Public Records Officer or designated staff;
- c. No public record may be marked, defaced, torn, damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public;
- d. 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;
- e. Public records may be copied only under arrangements made or approved by the Public Records Officer; and
- f. The District will deny and terminate a requester's inspection and withdraw the requested records if the Public Records Officer determines that a requester, when reviewing the records, acts in a manner that will damage or substantially disorganize the records or interfere with other essential District functions.

6.10 Large or Complex Requests – Providing Records in Installments

When the request is for a large volume or complex set of records, or where some records are more readily available or require no redaction, the Public Records Officer may elect to provide records on an installment basis. In such cases, the Public Records Officer will provide a reasonable estimate in the initial response as to when the first installment will be available. The Public Records Officer will send additional written notice as installments become available and provide an estimated date for the next installment. If a requester does not claim or review an installment or make other arrangements with the District within 30 days of any notification that an installment is available, the District may deem the request abandoned and stop fulfilling the remainder of the request.

6.11 Closure of Requests

Requests become ready for closure in any of the following circumstances: the District has provided copies, or made available for inspection if applicable, all requested records and has identified and explained any records that have been redacted or withheld as exempt; the District has denied the request and explained the basis for the denial, including identification of any records withheld as exempt; the District has informed the requester that, despite a thorough and diligent search, responsive records do not exist; the requester withdraws the request; the requester fails to clarify an entirely unclear request; or the requester fails to fulfill their obligations to timely inspect or claim available records, pay a requested deposit, pay the fees imposed for an installment, and/or make final payment for the request.

Any communication to a requester that closes a records request will be sent in writing (letter or email acceptable) and provide the following statements.

- a. Clearly state that the request is closed.
- b. Explain how the request was fulfilled and why the District is now closing the request. Some examples might include: (i) explaining that all responsive records have been produced and the request is now closed; (ii) explaining that, due to nonpayment of copy charges for the previous installment, the request is now closed; (iii) explaining that the requester failed to timely claim an installment or inspect records, so the request is now closed; or (iv) explaining that, because the requested record is entirely exempt from public disclosure, the request is being denied and closed.² These are only examples, and other explanations are acceptable so long as they explain in plain language how the request was fulfilled and why the request is being closed.
- c. Inform the requester that, because the request is being closed and the District does not intend to address the request further, the PRA's one-year statute of limitations to seek judicial review has started to run as of the date of the closing communication.
- d. Invite the requester to ask any follow-up questions within 20 days of the closing communication.

If the requester submits any timely follow-up questions, the Public Records Officer will respond to the requester in a manner consistent with this Policy, which may include conducting additional searches for responsive records. To the extent the District does not intend to further address the request, the Public Records Officer will respond to the requester that the District is not taking any further action with respect to the request and reiterate that the statute of limitations started to run from the date of the District's prior closing communication.

6.12 Log of Records Requests

The District will maintain a log of public records requests submitted to and processed by the District, which shall include the identity of the requester (if provided), the date the request was received, the text of the request, a description of the records produced, a description of the records redacted or withheld, the reasons for redaction or withholding, and the date of the final disposition of the request.

7. RECORDS ON PERSONAL DEVICES

7.1 All District officers, consultants and, as applicable, employees, including elected officials, must retain and produce public records within their control consistent with the PRA, including records on personal devices such as laptop computers, tablets, phones, and other devices. As a result, and to the fullest extent practicable, records are to be created and maintained on District systems. For example, all District officials have individual District email addresses, and those

² As required, further identification and explanation for any claimed exemptions will be provided to the requester consistent with Section 8.

addresses are to be used for emails and related communications concerning District business. Records received on personal devices that are District public records (*e.g.*, they relate to District business or are within the scope of official duties) are to be forwarded to the District for record maintenance before destruction, and in any event within fourteen (14) days of receipt or creation of the record. A public record on a personal device may be deleted only if such destruction complies with the State's Record Retention Schedule (which in many cases is 6 years) or transferred to the District for retention or destruction.

7.2 Any record subject to a records request may not be destroyed until first produced to the District for review. Upon review, the District may determine that the record (a) is not responsive public record, or (b) is a responsive public record and either (i) produce the record consistent with the PRA, or (ii) withhold or redact the record with an appropriate exemption log or similar explanation consistent with the PRA.

7.3 Upon request of the record custodian, the District will review personal devices for public records. The cost of the review will be the responsibility of the District, including, if necessary, the cost of an outside forensic investigation of the device. The District will not be responsible for individual officer expenses that are not incurred or authorized by the District (including but not limited to expenses arising out of an officer failing to produce records on personal devices or otherwise failing to cooperate with the District in responding to a PRA request).

7.4 The District bears no responsibility for a record custodian's failure to comply with the PRA that subjects the custodian to remedies under the PRA. An intentional violation of the PRA or this policy may also result in the denial of District defense and/or indemnification of the records custodian under the District's policies.

8. EXEMPTIONS

The PRA provides that several types of documents and information are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any other statute exempts or prohibits disclosure. Requesters should be aware of PRA exemptions and exemptions outside of the PRA that may restrict or prohibit the District's ability to disclose certain documents. Some of these exemptions are described in Appendix A. The District's processes for applying exemptions to requested records are described in Section 6.5.

The District is prohibited by statute from disclosing lists of individuals for commercial purposes. If the District receives a request for a list of individuals, the Public Records Officer will ask the requester to complete a sworn declaration regarding the purposes for the records request.

9. COSTS OF PROVIDING COPIES OF PUBLIC RECORDS

9.1 There is no fee for inspecting public records in person at the District's main office or for records maintained on the District's website downloaded by the requester. For records requests requiring copies of documents, the requester shall pay the appropriate reproduction and mailing costs listed below. The District has concluded that calculating the actual costs of providing public records, including electronic records, would be unduly burdensome. Accordingly, the District adopts the fee schedule authorized by RCW 42.56.120. The Public Records Officer may elect to waive these fees.

9.2 Reproduction Costs

Black and white copies (per side), including printed copies of electronic records when requested	\$0.15 per page
Color copies (8½ x 11)	Actual cost
Scanning (to supply electronic copies of hard copy records)	\$0.10 per page
Records uploaded to email, or cloud-based data storage service, or other means of electronic delivery	\$0.05 per 4 electronic files
Records transmitted in an electronic format	\$0.10 per gigabyte
CD-ROM, DVD, thumb drive, or other digital storage media or device	Actual cost, not inclusive of scanning, PDF, or electronic document transfer fees.
Postage or delivery charges	Actual cost of postage or delivery and mailing materials

The above charges may be combined to the extent that more than one type of charge applies to copies produced in response to a particular request.

Depending on the size, nature, or number of requested copies, document copying may be contracted to another provider, and the actual cost of the copies shall be the responsibility of the requester.

For larger requests, the District may require a deposit of up to ten percent (10%) of the estimated costs of copying all the records. 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.

The District may, in lieu of calculating the fee based on the above schedule, charge a flat fee of \$2.00 when the above costs clearly equal or exceed \$2.00. If the request is being fulfilled in installments, no additional flat fee will be charged for any installment after the first installment.

The Public Records Officer may elect to waive the fees for a request for purposes of administrative convenience or based on other reasonable grounds. Additionally, the District may agree to an alternative fee arrangement with a requester.

9.3 Payment

Payment may be made by cash, check, or money order to Highlands Utility District.

10. RECORDS PRESERVATION

The District shall comply with state and federal laws affecting the maintenance and preservation of public records. This includes but is not limited to the guidelines promulgated by the Secretary of State Division of Archives and Records Management: the Local Government Common Records Retention Schedule (CORE) and the Utility Service Providers Records Retention Schedule. If a request is made at a time when a requested record exists but is scheduled for destruction in the near future for any reason, the Public Records Officer will retain possession of the record until the request is resolved.

11. PUBLIC RECORDS INDEX

The District finds that it would be unduly burdensome and would interfere with District operations to maintain an index of records. The District will make available for public disclosure all indices which may at a future time be developed for District use.

12. REVIEW OF PUBLIC RECORDS REQUEST DENIALS

12.1 Any person who objects to the initial denial or partial denial of a records request may petition in writing (email allowed) to the Public Records Officer for a review of that decision. The petition must include a copy of, or reasonably identify, the written statement by the Public Records Officer or designee denying the request.

12.2 The Public Records Officer shall promptly provide the petition and any other relevant information to the District's Board President. The Board President will consider the petition and either affirm or reverse the denial within five (5) business days following the Board President's receipt of the petition, or within such other time as the District and the requester mutually agree.

12.3 Any person may obtain court review of any District records decision pursuant to RCW 42.56.550 at the conclusion of five (5) business days after the initial denial regardless of any internal administrative appeal.

13. DISCLAIMER OF LIABILITY

13.1 Neither the District nor any of its officers, employees, officials, or custodians shall be liable, nor shall cause of action exist, for any loss or damage based upon release of public records if the person releasing the records acted in good faith in attempting to comply with this Policy.

13.2 This Policy is not intended to expand or restrict the rights of privacy or the rights to inspect and copy public records 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.

APPENDIX A

Partial List of Exemption and Prohibition Statutes Pertaining to District Public Records

The following statutes are listed in addition to any exemptions contained in Chapter 42.56 RCW. This list is for informational purposes and is not intended to be exclusive or exhaustive. Public records may be exempt from disclosure under other laws.

Washington State Statutes

RCW 5.60.060	Attorney-client communications
RCW 5.60.070	Court-ordered mediation records
RCW 19.108.020	Misappropriation of trade secrets
RCW 19.34.240(3)	Private digital signature keys
RCW 42.23.070(4)	Municipal officer disclosure of confidential information prohibited
RCW 42.41.030(7)	Identity of local government whistleblower
RCW 42.41.045	Non-disclosure of protected information (whistleblower)
RCW 48.62.101	Local government insurance transactions – access to information
RCW 50.13.060	Access to employment security records by local government agencies
RCW 50A.05.020(4)	Information pertaining to employees regarding family and medical leave
RCW 50A.20.030(2)(b)	Information obtained under the Family Medical Leave Act from employer records
RCW 51.28.070	Worker's compensation records
RCW 51.36.060	Physician information on injured workers
RCW 70A.105.070	Trade secret information regarding on-site sewage disposal
RCW 70A.205.240	Proprietary information on solid waste management practices
RCW 80.04.095	Utility records filed with UTC containing valuable commercial information
RCW 81.88.160(7)	Gas pipeline company reports submitted to the UTC that contain proprietary data or where disclosure would affect public safety
RCW 84.40.340	UTC records containing commercial information a court determines confidential

Federal Statutes

5 U.S.C. § 552a	Federal Privacy Act
42 U.S.C. § 405(c)(2)(vii)(I)	Limits on Use and Disclosure of Social Security Numbers