

RESOLUTION NO. 7923

A RESOLUTION adopting an updated policy regarding disclosure of public records under the Washington Public Records Act, chapter 42.56 RCW, and making findings and determinations under RCW 42.56.070 and RCW 42.56.120.

WHEREAS, Public Utility District No. 1, Clark County, Washington ("the District"), is a duly organized public utility district under Title 54 RCW and an agency under the Public Records Act, Chapter 42.56 RCW; and

WHEREAS, the Public Records Act, at RCW 42.56.070, requires agencies to maintain an index of certain agency records, unless the agency issues a formal order specifying the reasons why and the extent to which making such an index would be unduly burdensome or interfere with agency operations; and

WHEREAS, the Public Records Act, at RCW 42.56.120, permits agencies to charge actual costs for copies of records, unless by rule or regulation it declares the reasons doing so would be unduly burdensome.

NOW, THEREFORE, BE IT RESOLVED BY the Commissioners of Public Utility District No. 1 of Clark County, as follows:

Section 1. Adoption of Public Records Policy. The Commission hereby adopts an updated Public Records Policy in substantially the form attached hereto as Exhibit A ("Policy") as the rules governing disclosure of the District's public records.

Section 2. Findings and Determinations under RCW 42.56.070. The Commission finds and determines that maintaining an index under RCW 42.56.070 would be unduly burdensome and interfere with agency operations. The District provides utility services to thousands of businesses and residences in Clark County. The District's records are diverse, complex, and stored in multiple locations and in multiple systems and databases. The sheer volume of records produced by the District precludes any attempt to maintain a comprehensive and current index of records. The District will make available for public inspection and copying any indexes for agency use if it creates any in the future.

Section 3. Findings and Determinations under RCW 42.56.120. The Commission finds and determines that calculating the actual cost of providing public records would be unduly burdensome. The District does not have the resources to conduct a study to determine actual copying costs for all of its records, and to conduct such a study would interfere with other essential District functions. Further, through the legislative process, the public and requesters have commented on and been informed of authorized fees and costs provided in the Public Records Act, including RCW 42.56.120

and other laws. Accordingly, it is more cost efficient, expeditious, and in the public interest for the District to adopt the state legislature's approved fees and costs for most of the District's records, as authorized in RCW 42.56.120 and set forth in the fee schedule of the District's Public Records Policy.

Section 4. Ratification and Confirmation. Any actions of the District or its officers or employees prior to the date hereof and consistent with the terms of this resolution are ratified and confirmed.

Section 5. Severability. If any provision in this resolution is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this resolution and shall in no way affect the validity of the other provisions of this resolution.

Section 6. Effective Date. This resolution shall be in full force and effect from and after its adoption and approval.

Section 7. Prior Resolutions. All prior resolutions in conflict herein are hereby repealed, including but not limited to Resolution 6990.

PASSED AND ADOPTED this 16th day of December, 2025.

Signed by:

Nancy Barnes

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President

ATTEST:

Signed by:

Sharon Erickson

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Secretary

EXHIBIT A

PUBLIC UTILITY DISTRICT NO. 1, CLARK COUNTY, WASHINGTON PUBLIC RECORDS POLICY

1. AUTHORITY AND PURPOSE

Public Utility District No. 1, Clark County, Washington, (the District) is an agency under the Washington Public Records Act, Chapter 42.56 RCW (PRA). It is the policy of the District to disclose the District's public records in compliance with the PRA and any other applicable federal or state law.

This policy provides information to persons requesting access to the District's public records and establishes request processes and procedures for both requesters and District staff. 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.

This policy shall be available at the District's main office and posted on the District's website.

2. AGENCY DESCRIPTION

The District is a public utility district and local government operating as Clark Public Utilities in Clark County, Washington. The District's main office is located at 1200 Fort Vancouver Way, Vancouver, WA 98663, and its website is <https://clarkpublicutilities.com>.

3. DEFINITIONS USED IN THIS POLICY

3.1 Public Record

For purposes of this policy, "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 District regardless of physical form or characteristics. See RCW 42.56.010(3).

3.2 Writing

As used in Section 3.1, "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. See RCW 42.56.010(4).

Where this policy references a written communication to be sent by the Public Records Officer, the terms “written” or “writing” are intended to include communications sent via email or any records request portal or file sharing platform used by the District. Those terms are not intended to require correspondence by formal letter or prevent the Public Records Officer’s use of any appropriate means of written communication with a requester.

4. PUBLIC RECORDS OFFICER

The District’s General Counsel is the District’s Public Records Officer, serving as a point of contact for members of the public in requesting disclosure of public records and overseeing the District’s compliance with the requirements of the PRA and this policy. See RCW 42.56.580. 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.

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. The Public Records Officer will be responsible for receiving, tracking, and responding to all public records requests the District receives, regardless of which District department or staff member receives the request.

5. AVAILABILITY OF PUBLIC RECORDS

Public records are available for inspection and copying during the District’s customary business hours, which are posted at the District’s main office and on the District website. Records must be inspected at the District’s main office (1200 Fort Vancouver Way, Vancouver, WA 98663), unless the requester pays 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, including at <https://www.clarkpublicutilities.com/your-customer-owned-utility/>.

6. MAKING A REQUEST FOR PUBLIC RECORDS

Requesters are directed to submit their requests for public records in writing via mail, email, or fax to the District’s Public Records Officer at:

John Eldridge, Public Records Officer
Clark Public Utilities
PO Box 8900
Vancouver, WA 98668
Fax Number: 360-992-3035
Email: jeldridge@clarkpud.com

In order to aid timely disclosure, requests should include the following information:

- a. The name and contact information of the requester;
- b. A statement that records are being requested under the Public Records Act, along with a detailed description of the public records being requested;
- c. The date range the requester would like to be searched for records;
- d. Whether the requester wants copies or wants to inspect the requested records; and
- e. If applicable, how the requester prefers to receive copies. Records will typically be provided electronically unless the requester asks for hard (physical) copies, in which case the requester should provide the address where the copies should be mailed or plan to pick up the copies from the District's main office during customary business hours.

The Public Records Officer will confirm in writing all oral requests made in person or by telephone, indicating receipt of the information and the substance of the request.

7. PROCESSING PUBLIC RECORDS REQUESTS

7.1 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 written communication 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 written communication denying the request, including, if responsive records exist, an exemption log or other appropriate explanation consistent with this policy.

Response communications that close a request (whether by completing the production of all responsive records or denying the request) will include closing language consistent with this policy (see Section 7.11) and the PRA.

The District reserves the right to direct requesters to the District website for commonly requested documents by providing an internet address or link to the specific records requested.

The Public Records Officer shall make reasonable efforts to assist any requester who cannot easily access the internet, including, but not limited to, providing a copy of the record or allowing the requester to view a copy using a District computer.

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.

7.2 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 parties affected by the request;
- e. Determine whether any of the records requested are exempt, in full or in part, from public disclosure;
- f. Redact records and/or prepare exemption logs or exemption explanations; or
- g. Any other appropriate purpose identified by the Public Records Officer and authorized by law.

The District has limited resources, and the Public Record Officer serves in other capacities in addition to PRA responsibilities. The District will respond within five (5) business days of requests; 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. 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 also mean that responses to requests for District records may be done in multiple installments and extend over a period of time.

The 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.

7.3 Unclear or Invalid Requests

In acknowledging receipt of a request that is unclear or ambiguous, the Public Records Officer 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.

7.4 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 the affected parties. Such notice will describe, or include a copy of, the records request, the date on or after which the District intends to release the records, and how the individual or organization can prevent release of the records. The District will release the records after the notice period given to the third party has expired 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.

7.5 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. The Public Records Officer may choose to provide an itemized exemption log to the requester to assist in identifying and explaining the basis for specific redactions or withholdings.

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.

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.

7.6 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 10.

7.7 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 District for other District purposes.

In the event the District believes the request requires such expertise or customization, the Public Records Officer 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.

7.8 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 Public Records Officer 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 how 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.

7.9 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 offices 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 authorized 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.

7.10 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 (rolling) basis. In such cases, the Public Records Officer will provide a reasonable estimate in the initial response communication 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 Public Records Officer 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.

7.11 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 and include the following:

- 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.¹ 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

¹ As required, identification and explanation for any claimed exemptions will be provided to the requester consistent with Section 7.5.

limitations to seek judicial review has started to run as of the date of the closing communication; and

- d. Invite the requester to ask any follow-up questions regarding the request 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.

7.12 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 any records produced, a description of any records redacted or withheld, the reasons for any redaction or withholding, and the date of the final disposition of the request.

8. RECORDS ON PERSONAL DEVICES

All District employees, officials, officers, and volunteers must retain and produce public records within their control consistent with the PRA, including any public records located on personal devices such as laptop computers, tablets, phones, and other devices. Any record on a personal device that is potentially subject to a pending PRA request may not be destroyed until after it has been provided to the Public Records Officer for review and the Public Records Officer informs the records custodian that the record is not needed for responding to the PRA request. Upon review, the Public Records Officer may determine that the record (a) is not a 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.

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 or other applicable law. 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.

9. 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 7.5.

10. COSTS OF PROVIDING COPIES OF PUBLIC RECORDS

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.

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.

The District may require a deposit of up to ten percent (10%) of the estimated costs of providing copies for a request, including a customized service charge. The Public Records Officer may also require payment of the remainder of the copy costs before providing the records, or the payment of the copy costs for 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.

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

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 denying the request.

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

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

Neither the District nor any of its employees, officials, officers, volunteers, 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.

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 as examples of potentially applicable exemptions in addition to those contained in the Public Records Act, Chapter 42.56 RCW (which are not listed here). This list is for informational purposes only and is not intended to be exclusive or exhaustive. Public records may be exempt from disclosure under other applicable laws.

RCW 5.60.060	Attorney-client communications
RCW 5.60.070	Court-ordered mediation records
RCW 19.34.240(3)	Private digital signature keys
RCW 19.108.020	Misappropriation of trade secrets
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 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
5 U.S.C. § 552a	Federal Privacy Act
42 U.S.C. § 405(c)(2)(vii)(1)	Limits on use and disclosure of social security numbers