



## PEND OREILLE COUNTY PUD

<b>Document Title:</b>  <p style="text-align: center;"><b>PUBLIC RECORDS DISCLOSURE POLICY</b></p>	<b>Effective Date:</b> 7-23-17  <b>Original Date:</b> 2-7-12	<b>Code:</b>  <p style="text-align: center;"><b>OPERATING</b></p>
<b>Document Owner, Title:</b> Karen Willner, Assistant to General Manager 	<b>Document Type:</b>  <p style="text-align: center;"><b>POLICY</b></p>	<b>Confidentiality Category:</b>  <p style="text-align: center;"><b>PUBLIC</b></p>
<b>Reviewed By, Title:</b> F. Colin Willenbrock, General Manager 	<b>Audience:</b> District wide	
<b>Approved By, Board of Commissioners:</b> Daniel L. Peterson, President Curtis J. Knapp, Vice President Richard A. Larson, Secretary	<b>Approved Date:</b>  <p style="text-align: center; font-size: 1.2em;">July 11, 2017</p>	<b>Next Review Date:</b>  <p style="text-align: center;"><b>Based on the District's needs</b></p>

### *Table of Contents*

1.	Purpose/Scope.....	3
2.	Definitions.....	3
2.1	Agency.....	3
2.2	Person in Interest.....	3
2.3	Public Record.....	3
2.4	Writing.....	4
2.5	Identifiable Record.....	4
2.6	Public Records Officer.....	4
2.7	Exempt Information.....	4
2.8	Redact.....	4

Document Title: Public Records Disclosure Policy

Effective Date: July 23, 2017

Code: Operating Manual

Path: G:\\_Dept\\_OGM\~Published Docs\~District Docs\Policies\Public Records Disclosure Policy

3. Organization, Address, Contact Information, Public Records Officer and Availability of Public Records.....4

4. Requests for Public Records.....5

5. Processing Record Requests – General.....6

6. Processing Record Requests – Electronic.....7

7. Inspection of Records .....7

8. Exemptions .....8

9. Costs for Providing Copies of Public Records.....9

10. Denial and Review of Public Records..... 10

11. Management of Records..... 11

12. Disclaimer of Liability..... 12

13. Request Form for Disclosure of Public Records..... 12

14. Document Management ..... 12

15. References ..... 12

16. Revision History ..... 13

## **1. Purpose/Scope**

The purpose of this policy is to establish the processes the Public Utility District No. 1 of Pend Oreille County (“District”) will follow to provide the public full access to public records, mindful of an individual’s privacy rights and the desirability of the efficient administration of government. This policy is intended to provide information to persons wishing to request access to public records of the District and establish processes for both the requestors and the District staff that are designated to best help the public in obtaining such access.

In 2005, the Washington State Attorney General adopted advisory “model rules” for state and local agencies, found in the Washington Administrative Code (WAC) at Chapter 44–14, to help them develop their own effective policy. The model rules are advisory only and do not bind the District, but the District has reviewed and incorporated applicable provisions of the model rules into this policy.

The Public Records Act (“Act”), Chapter 42.56 Revised Code of Washington (RCW), and this policy will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the District will be guided by the provisions of the Act describing its purposes and interpretation.

## **2. Definitions**

### **2.1 Agency**

“Agency” includes all state agencies and all local agencies. “State agency” includes every state office, department, division, bureau, board, commission, or other state agency. “Local agency” includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency. The District is a local agency.

### **2.2 Person in Interest**

“Person in interest” means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, “person in interest” means and includes the parent or duly appointed legal representative.

### **2.3 Public Record**

“Public Record” as described in Chapter 42.56.10 RCW, 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 any agency regardless of physical form or characteristics.

## **2.4 Writing**

“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.

## **2.5 Identifiable Record**

An “identifiable record” is one that the District staff can reasonably locate. An “identifiable record” is not a request for “information” in general.

## **2.6 Public Records Officer**

“Public Records Officer” means the individual designated by the General Manager, in accordance with WAC 308-10-30, to serve as a point of contact for members of the public in requesting disclosure of public records.

## **2.7 Exempt Information**

“Exempt Information” means any information that may be redacted or is exempt from disclosure pursuant to the Public Information Act.

## **2.8 Redact**

“Redact” means to black out exempt information from a document prior to it being made available for inspection and/or copying.

## **3. Organization, Address, Contact Information, Public Records Officer and Availability of Public Records**

The District is a municipality of the State of Washington and is governed by the laws of the State of Washington through the RCW Title 54. It is administered by a locally elected Board of three Commissioners. The District is located in the northeastern most corner of the State of Washington, and it serves all of Pend Oreille County. The District has its administrative office located at 130 North Washington Avenue, Newport, Washington and a Box Canyon Dam office located at 7492 Highway 31, Ione, Washington.

The public may make requests, inspect non-exempt Public Records or obtain copies at the District’s Newport office between 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays and at the Box Canyon Dam office between 9:00 a.m. to 1:00 p.m., Monday through Friday, excluding legal holidays.

Any person wishing to request access to Public Records of the District, or seeking assistance in making such a request should contact the District’s Public Records Officer:

*Document Title: Public Records Disclosure Policy*

*Effective Date: July 23, 2017*

*Code: Operating Manual*

*Path: G:\\_Dept\\_OGM\~Published Docs\~District Docs\Policies\Public Records Disclosure Policy*

Public Records Officer  
Pend Oreille County PUD  
PO Box 190  
130 N. Washington Avenue  
Newport, WA 99156  
Telephone Number: (509) 447-3137  
Fax Number: (509) 447-5824  
E-mail: [information@popud.org](mailto:information@popud.org)

The Public Records Officer shall oversee compliance with the Act but another District staff member, or designee, may process or otherwise assist with the request. The Public Records Officer or designee will implement the District's policies and procedures regarding the release of the public records, provide the fullest assistance to the requestors, ensure that public records are protected from damage or disorganization, and prevent excessive interference with essential functions of the District.

Per RCW 42.56.040 and WAC 44-14-02001, the District will prominently display its published Public Records Disclosure Policy and make it available at the District's Newport and Box Canyon Dam offices and will also post its Public Records Disclosure Policy on its web site.

#### **4. Requests for Public Records**

A request shall be made in writing in the form of a letter, fax or e-mail (all addressed to the Public Records Officer) or upon a form prescribed by the District, which shall be available at the District offices or online at [www.popud.org](http://www.popud.org). The form can be delivered in person to any District office or can be mailed via US mail to: PUD, Attention: Public Records Officer, PO Box 190, Newport, WA 99156, via fax to: (509) 447-5824 or via e-mail to [information@popud.org](mailto:information@popud.org). The request shall include the following information:

- Name and Mailing Address of the requestor
- Calendar date of the request
- Telephone number(s) for requestor
- E-mail address for the requestor (if applicable)
- Nature of the request
- A reference or identification of the public record so the Public Records Officer can identify and locate the record.
- If the requestor wishes to have copies of the record(s) made instead of simply inspecting them, the requestor should so indicate and designate the format in which the requestor would prefer to receive the records and make suitable payment arrangements prior to the documents being mailed.

The District is not required to fabricate, construct, reconstruct or manufacture records under a public record request that do not already exist.

## **5. Processing Record Requests – General**

The District will respond, in writing, within five (5) business days of receipt of the request by doing one or more of the following:

- Make the records available for inspection or copying. If copies are requested and the terms of payment are agreed upon, copies will be sent to the requestor.
- Provide a reasonable estimate of time the District will require to respond to the request.
- Request clarification if the request is unclear or does not sufficiently identify the requested records. If the District requests clarification of the request, it must include an estimated response time to the requestor.
- Deny the record request in whole or in part.

Additional time required to respond to a request may be based upon the need to clarify the intent of the request, locate and assemble the record(s) requested, notify third persons or agencies affected by the request and allow them time to take action to modify the request or prevent disclosure, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

If the requestor fails to respond to the District's request for clarification within 30 days and the entire request is unclear, the District will consider the request abandoned and will send a closing letter to the requestor. If portions of the request are clear, however, the District must respond to those portions.

In the event that requested record(s) contain information that may affect the rights of others who may be named in the record(s) and which may be exempt from disclosure, the Public Records Officer or designee may, prior to providing the record(s), give notice to such others named or whose rights may be affected by the disclosure of the record(s), allowing them a reasonable amount of time to seek an injunction to prevent or limit disclosure. The notice to the affected person(s) may include a copy of the request. The District may take this into account when providing an estimate of when the record(s) will be available for review.

Some records are exempt from disclosure in whole or in part. If the District believes that a record is exempt from disclosure and should be withheld, the Public Records Officer or designee will state the specific exemption and will provide a brief explanation of why the records or a portion of the record is being withheld. 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 portion(s)
- Provide the nonexempt portion(s)

- State the specific exemption and explain why a portion of the record has been redacted

## **6. Processing Record Requests – Electronic**

In accordance with WAC 308-10-042, the process for requesting electronic public records is the same as for requesting paper public records.

Electronic information, if currently held in that format and reasonably locatable, may be made available by the public records officer or designee contingent upon ensuring the validity and integrity of the information.

## **7. Inspection of Records**

Consistent with the availability of resources, time and other demands, the District will promptly provide space for the requesting party to inspect public records. To protect public records from damage or disorganization as required by the Act, the following procedures and practices should be followed:

- No public record shall be removed from the District's premises
- Inspection of any public record shall be conducted in the presence of the Public Records Officer or designee
- 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
- 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
- The requestor shall indicate which documents he or she wishes the District to copy
- After inspection is complete, the Public Records Officer or designee will make the requested copies or arrange for copying

Inspection shall be denied and the record(s) withdrawn by the Public Records Officer if the requestor, when reviewing records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the District.

In response to a request for a large number of documents, the Public Records Officer or designee may elect to provide records on an installment basis.

If the requestor does not claim or review the entire set or an installment of assembled records, or fails to pay the deposit or final payment for requested copies within 30 days of notification that records are available for inspection, copying or pick up, the Public Records Officer or designee may consider the request abandoned, close the request, and re-file the records. When a requestor withdraws or abandons a request, the Public Records Officer or designee will provide written notice to the requestor that the District has closed the request.

## **8. Exemptions**

The Public Records Act, Chapter 42.56 RCW, provides that certain public records are exempt from public inspection or disclosure. In addition, public records are exempt from disclosure if any other statute exempts or prohibits disclosure.

To the extent required to prevent disclosure of statutorily protected information, or to protect information within a document that partially meets an exemption under federal or state law, such exempt information shall be deleted in a manner consistent with legal requirements prior to being made available under a public records request. In each case, the justification for the deletion shall be explained fully to the requestor in writing.

The following records of the District may be exempt in whole or in part, from disclosure. The District reserves the right to determine whether any other requested public record, or portion thereof, is exempt from inspection under state or federal law:

- Reservation of Rights under RCW 42.17
- Commercial Purposes – the District shall not give, sell, or provide access to lists of individuals requested for commercial, or profit-expecting purposes or activities
- Attorney-Client privilege documents
- Self-Insurance Program reserves documents
- The content of real estate appraisals obtained by the District until the prospective sale is abandoned or until such property has been acquired
- Requests from Law Enforcement Authorities. A law enforcement authority may not inspect or copy District records of any person, unless such authority first provides the District with a subpoena and/or a written statement along with identification and authorized signature that it suspects that the particular person to whom the records pertain has committed a crime, and the authority has a reasonable belief that the records could determine, or help determine, whether the suspicion might be true
- Valuable formula, designs, drawings and research data obtained by the District within five (5) years of the request for disclosure when disclosure would produce private gain and public loss
- Preliminary drafts, notes, recommendations and intra-agency memoranda in which opinions are expressed or policies are formulated or recommended
- Personal information contained in District employees, appointees, or elected officials personnel files to the extent that disclosure could violate their right to privacy



- Employee residential addresses, residential telephone numbers, personal e-mail addresses, and personal cell phone numbers
- Customer residential addresses, residential telephone numbers, and other related contact and personal account bank information
- Test questions, scoring keys and other examination data used to administer pre-employment or academic examinations
- All applications for employment, including the names of applicants, resumes, and related materials
- Per RCW 42.56.420, any information regarding the critical infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities
- Real property
- Volunteers who do not serve in an administrative capacity; have not been appointed by the District to an agency board, commission, or internship; and do not have a supervisory role or delegated District authority.

The District will revise this list from time to time to reflect any changes in applicable law. The failure to identify a specific statute shall not affect the District's ability to claim such record is exempt under state or federal law.

The District reserves the right to seek relief in the superior court if disclosure of a record would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions.

## **9. Costs for Providing Copies of Public Records**

No fee shall be charged for the physical inspection of Public Records.

Effective July 23, 2017 per Washington State legislature, the District can charge for copying and producing electronic records. The District can charge actual costs incurred for providing electronic copies, including costs related to production, file transfer, storage, and transmission. If calculating the actual costs would be unduly burdensome for the District, the following default charges will be charged.

The cost to be charged to the requestor for public records that are sent electronically (including costs related to production, file transfer, storage, and transmission) is hereby established at the rate of \$0.10 per page for records scanned into electronic format; \$0.05 for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system; and \$0.10 per gigabyte for transmitting records electronically.

If requests require the use of information technology expertise to prepare data compilations or provide customized electronic access services that are not otherwise used by the District, the District is permitted to charge for this service. The District needs to describe this charge to the requestor prior to assessment and will require a deposit of up to 10% of the estimated customized service charge costs.

The cost to be charged to the requestor for public records that are photocopied or faxed using standard 8 ½ x 11 black and white photocopies is hereby established at the rate of \$0.15 per page, plus sales tax.

The cost to be charged to the requestor for public records that are copied to a CD is hereby established at a rate of \$0.60, plus sales tax for the cost of the CD.

Copies of large public records requests may require a deposit from the requestor of 10% of the estimated cost to copy the documents. When a deposit is requested, copies of public records will not be fulfilled if the required deposit is absent.

Copies of large public records requests provided on an installment basis must be paid for within 30 days of when copies are available and the requestor has been notified. If payment is not provided, the remainder of the installment will not be fulfilled until receipt of payment.

The public will be charged out-of-pocket costs for nonstandard copies (color copies, blueprints or photographs), out-of-pocket costs for outside services, and out-of-pocket costs for postage and shipping.

The public will be charged the actual out-of-pocket costs for reproduction of documents if the public has requested documents and District staff workload issues necessitate sending the documents out to a reliable copy source for copying.

If a requestor asks the District to provide an estimate of cost before copies are made, the District must provide such an estimate. The requestor must then be given the opportunity to revise their request to reduce the cost.

If the requestor fails to pay for the copies, the Public Records Officer or designee shall consider the request closed and shall not be obligated to fulfill the balance of the record request.

All copy fees are payable at the time the records are provided to the requestor and payments may be made by cash, credit card (Visa or MasterCard), check or money order payable to the Pend Oreille County PUD.

## **10. Denial and Review of Public Records**

Any person who objects to the denial of a request for a public record may request in writing to the Public Records Officer for a review of such decision. The request shall include a copy, or reasonably identify the written statement by the Public Records Officer or designee denying the request.

*Document Title: Public Records Disclosure Policy*

*Effective Date: July 23, 2017*

*Code: Operating Manual*

*Path: G:\\_Dept\\_OGM~Published Docs\~District Docs\Policies\Public Records Disclosure Policy*

Immediately after receiving a written request for review of a decision denying a Public Record, the Public Records Officer or designee shall refer it to the District's General Manager. The General Manager shall immediately consider the matter and either affirm or reverse such denial within two business days following the District's receipt of the petition, or within such other time as the District and the requestor mutually agree.

Any person may obtain court review of denials of public records requests, pursuant to the Public Records Act, at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

## **11. Management of Records**

For the reasons stated in RCW 42.56.070, the District previously adopted Resolution No. 1337 in determining that to maintain an index of public records would be unduly burdensome and would interfere with District operations. Effective July 23, 2017 per Washington State legislature, the District is required to maintain a public records log to include:

- Identity of the requestor (if provided)
- Date and text of the request
- Description of the records produced in response to the request
- Description of the records redacted or withheld and the reasons for redaction/withholding
- Date of the final disposition of the request.

If the District incurs \$100,000 or more in annual staff and legal costs associated with fulfilling public records requests during the prior fiscal years, the District must also track the following information and report to the Joint Legislative Audit and Review Committee annually by July 1:

- Leading practices and processes for records management and retention and what percentage of such practices were implemented by the District
- Average length of time taken to acknowledge receipt of a public records request
- Proportion of records provided within five days of the request and the proportion of requests estimated beyond five days
- District's initial (and modified) estimate for providing records as compared with the actual time in providing such records
- Number of requests where the District asked for clarification from the requestor
- Number of requests denied and the most common reasons for denial
- Number of requests abandoned
- Requests by type of requestor (if known)
- Portion of requests fulfilled electronically compared to requests fulfilled by physical records
- Number of responses required to be scanned
- Estimated District staff time spent on each individual request
- Estimated costs incurred in fulfilling requests

- Number of claims filed alleging a violation of the Act and other public records statutes
- District costs defending claims of violations of the Act and other public records statutes
- District costs for managing and retaining records
- Expenses recovered from requestors for fulfilling records requests
- Measurements of requestor satisfaction with agency responses, communication, and processes relating to public records requests

The District will retain records in accordance with the retention schedules developed by local, state and federal agency records committees that are common to most agencies. Such records may be stored offsite or at remote office locations away from the District's administrative building.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the District will retain possession of the record until the request is resolved.

## **12. Disclaimer of Liability**

As provided in the Public Records Act, neither the District nor any officer, employee, official or custodian shall be held liable, nor 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 and procedure.

## **13. Request Form for Disclosure of Public Records**

The request form is located at the end of this policy.

## **14. Document Management**

This document will be reviewed and updated by the document owner as necessary.

## **15. References**

- Pend Oreille County PUD Public Records/Information Access Policy Code 97-04
- Pend Oreille County PUD Records Management Policy
- RCW 42.17.250
- RCW 42.17.260
- RCW 42.56: Public Records Act
- RCW 42.56.070
- RCW 42.56.10
- RCW 42.56.210
- RCW 42.56.420
- RCW Title 54
- WAC 44-14

*Document Title: Public Records Disclosure Policy*

*Effective Date: July 23, 2017*

*Code: Operating Manual*

*Path: G:\\_Dept\\_OGM~Published Docs\~District Docs\Policies\Public Records Disclosure Policy*

- WAC 44-14-02001
- WAC 308-10-042
- WAC 308-10-30

**16. Revision History**

Rev.	Revision Date	Description	By
0	2-7-12	Revision to the wording and format of the Pend Oreille County PUD Public Records/Information Access Policy Code 97-04	Karen Willner
1	4-12-16	Board review of policy	Karen Willner
2	7-11-17	Updates to Sections 5 clarification of request; 8 volunteer exemption; 9 cost for electronic records; and 11 maintaining log	Karen Willner
3			

*Document Title: Public Records Disclosure Policy*

*Effective Date: July 23, 2017*

*Code: Operating Manual*

*Path: G:\\_Dept\\_OGM\~Published Docs\~District Docs\Policies\Public Records Disclosure Policy*

**Public Utility District No. 1 of Pend Oreille County  
PO Box 190, 130 N. Washington Avenue, Newport, WA 99156, 509-447-3137**

**PUBLIC RECORDS REQUEST FORM**

Instructions: 1. Complete and Sign Section A  
2. Return completed form to Pend Oreille County PUD

<b>SECTION A – PUBLIC RECORDS REQUEST INFORMATION</b>			
<b>Requestor Name</b>	<b>Phone Number</b>	<b>Request Date</b>	
<b>Mailing Address</b>	<b>City/State</b>	<b>Zip Code</b>	<b>E-mail Address</b>
<b>This is a request to:</b> <input type="checkbox"/> Inspect and/or <input type="checkbox"/> Receive a copy of the records described below:			
If requesting copies, in what format would you like to receive them?			
<input type="checkbox"/> Receive Electronically (if available electronically) <input type="checkbox"/> Send Hard Copy via US Postal Service/Fed Ex <input type="checkbox"/> Via E-mail <input type="checkbox"/> Compact disc (Charges may apply) <input type="checkbox"/> Pick up at: <input type="checkbox"/> Newport Office or <input type="checkbox"/> Box Canyon Office			
Description of documents requested (Please describe in sufficient detail to permit records to be located):			
I certify that if the Public Records Request involves lists of individuals, the information will not be used for commercial or profit-expecting purposes or activities.			
I agree to pay reasonable costs per Pend Oreille County PUD’s fee schedule, plus the cost of mailing (if applicable)			
_____ <b>(Signature)</b>		_____ <b>(Date)</b>	
<b>SECTION B – DISTRICT USE ONLY</b>			
1. <input type="checkbox"/> Request Granted <input type="checkbox"/> Record Withheld <input type="checkbox"/> Record Withheld in Part			
2. If withheld, in whole or in part, state the applicable exemption and why the entire record or portions of the record are being redacted. _____			
3. Date / Time of Response:    Date: _____                      Time: _____			
<b>Request ID No. :</b>	<b>Request was made:</b> <input type="checkbox"/> In person <input type="checkbox"/> By Fax <input type="checkbox"/> By Mail <input type="checkbox"/> By E-mail		
<input type="checkbox"/> Assigned ID and Entered into Log <input type="checkbox"/> Clarification Requested <input type="checkbox"/> Scanned and Saved to Electronic file <input type="checkbox"/> Sent via e-mail to Department/staff involved <input type="checkbox"/> Reviewed/Processed exemptions and/or redactions <input type="checkbox"/> Third Party Notifications made (if privacy issues are involved) <input type="checkbox"/> Notification of time extension	<input type="checkbox"/> Requestor notified records are available for review <input type="checkbox"/> Responsive records provided in installments <input type="checkbox"/> Deposit requested <input type="checkbox"/> Copies prepared <input type="checkbox"/> Payment received <input type="checkbox"/> Copies Mailed <input type="checkbox"/> Closing Letter		
<b>Comments:</b>			