

**ABC Water & Storm Water District**  
**Public Records Policy**  
Resolution # 10-03-31-04

**Introduction:**

It is the policy of the ABC Water & Storm Water District that openness leads to a better informed citizenry, which leads to better government and better public policy. Thus, it is the policy of the ABC Water & Storm Water District to strictly adhere to the state's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation must also be in writing. **This policy is not intended to be legal advice.**

**Section 1. Public Records**

The ABC Water & Storm Water District, in accordance with the Ohio Revised Code, defines records as including the following: Any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of the District that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the District. The District is not required to create new records to respond to a public records request, even if it is only a matter of compiling information from existing records. All records of the District are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

**Section 1.1 Available for Inspection**

It is the policy of the ABC Water & Storm Water District that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See Section 4 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

**Section 1.2 Exemptions to Public Records Law**

Generally, the confidential nature of certain types of information or records precludes their release. Federal and state law provides numerous exceptions to the general rule that disclosure of public records is mandatory. However, most of the exceptions do not, by themselves, prohibit the release of the prescribed records. Rather, these records merely are excluded from the general rule of mandatory disclosure.

In the event a request is made to inspect or obtain a copy of a record maintained by the District whose release may be prohibited or exempted by either state or federal law, the request shall be forwarded to our legal counsel for research and/or review. The requester shall be advised that their request is being reviewed by our legal counsel to ensure that protected exempted information is not improperly released.

## **Section 2 Record requests**

Each request for public records should be evaluated for a response using the following guidelines:

### **Section 2.1 Identification of Public Record**

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the District to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the District keeps its records.

### **Section 2.2 Format of Request**

The District or the person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but only after all of the following occur:

- Disclosure to the requester that a written request is not mandatory;
- Disclosure to the requester that the requester may decline to reveal the requester's identity or intended use;
- Determination by the District that a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability to identify, locate, or deliver the public records sought by the requester.

### **Section 2.3 Choices of Medium**

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. The requester can choose to have the record (1) on paper, (2) in the same form as the District keeps it, or (3) on any medium upon which the District determines the record can "reasonably be duplicated as an integral part of the normal operations of the District." Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.

### **Section 2.4 Response Time to Requests**

Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, etc. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows.

All requests for public records must either be satisfied (see Section 2.4) or be acknowledged in writing by the District within three business days following the District's receipt of the request. If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following:

**Section 2.4a** – An estimated number of business days it will take to satisfy the request.

**Section 2.4b** – An estimated cost if copies are requested.

**Section 2.4c** – Any items within the request that may be exempt from disclosure.

### **Section 2.5 Prohibition Against Requesters Right to Make Copies Themselves**

A requester seeking copies of public records is not permitted to make their own copies of the requested records by any means. This measure is to protect the integrity of the original document.

### **Section 2.6 Limit to Number of Request by Mail**

The District may limit the number of records requested by a person that the District will transmit by United States mail to ten per month, unless the person certifies to the District in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes.

### **Section 2.7 Requests by Incarcerated Persons**

Under Ohio law, an incarcerated person may receive public records, but only if the records concern a criminal investigation. The incarcerated person must follow very strict guidelines.

- The records must be "public records" which are not subject to an exemption from disclosure.
- The incarcerated person must have secured a finding from the judge who imposed the sentence of incarceration (or that judge's successor) that the information sought in the public record is necessary to support a justifiable claim of the person.

Courts have denied the public records requests of inmates because this procedure was not followed.

### **Section 3 Denial of Public Record Requests**

Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority. Further, if the initial request was provided in writing, then the explanation shall be provided to the requester in writing.

### **Section 3.1 Denial of an Ambiguous or Overly Broad Request for Public Record**

If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies of inspection of public records such that the District cannot reasonably identify what public records are being requested:

- The District may deny the request
- However, the District shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained in the ordinary course of business.

### **Section 3.2 Denial of a Public Information Record Not Maintained by the District**

If the District receives a request for a record that it does not maintain or the request is for a record which is no longer maintained, the requester shall be so notified in writing utilizing Form PR-1.

### **Section 3.3 Denial of a Public Record Maintained by the District**

The District may deny a request for a record maintained by the District if the record that is requested is prohibited from release due to applicable state and federal law.

- If the record request is denied in its entirety:
  - The District may check the appropriate box on Form PR-1 if the employee is simply applying the statutory exclusion.
  - The District shall consult legal counsel if the employee is unsure if the record requested is exempt from disclosure.
- If only part of the record is not subject to release, the District will redact such information and release the non-exempted information:
  - "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record".
  - The District will check the appropriate box on Form PR-1 and cite the exemption from Appendix A, B, or C with the corresponding redaction.
  - The District shall consult legal counsel if the employee is unsure if a part of the record requested is exempt from disclosure.

## **Section 4 Costs for Public Records**

Those seeking public records will be charged only the actual costs of reproduction. Employee time will not be calculated into the "actual cost" charge. The District may require a requester to pay in advance the cost involved in providing the copy of the public record, as requested.

**Section 4.1** The charge for paper copies is 5 cents per page.

**Section 4.2** The charge for downloaded computer files to a compact disc is \$1 per disc.

**Section 4.3** There is no charge for documents e-mailed.

**Section 4.4**

Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

**Section 5 E-mail**

Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the District. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

**Section 5.1 Public Email Accounts**

- Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the District are instructed to retain their e-mails that relate to public business (see Section 1 Public Records) and to copy them to their business e-mail accounts and/or to the District's records custodian.
- The records custodian is to treat the e-mails from private accounts as records of the District, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Public Records Act.

**Section 5.2 Private Email Accounts**

- Records in private email accounts used to conduct public business on public property may be subject to disclosure, and all officials, employees, or other representatives of the District are instructed to retain such private emails only if they relate to public business.
- Such emails from private accounts should be treated as records of the District, retaining them per established schedules, and making them available for inspection and copying in accordance with the Public Records Act.

**Section 6 Failure to respond to a public records request**

The District recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the District's failure to comply with a request may result in a court ordering the District to comply with the law and to pay the requester attorney's fees and damages.

**This public records policy shall remain in effect until such time that it is revised or rescinded in writing.**

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