



## **BEAR VALLEY COMMUNITY SERVICES DISTRICT**

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### **PUBLIC RECORDS REQUEST POLICY**

#### **I. PURPOSE:**

To establish District policy and guidelines concerning accessibility of District records.

#### **II. BACKGROUND:**

Section 6253 of the Government Code provides that every person has a right to inspect any public record except those specifically exempted by law.

"Public record" is defined by law to include any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the District regardless of physical form or characteristics.

A "writing" for purposes of public access may be a handwriting, typewriting, printing, photocopy, photograph, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols or any combination thereof, regardless of the manner in which the record has been stored.

#### **III. POLICY:**

Records of Bear Valley Community Services District (District) are open to inspection at all times during normal office hours at District's headquarters located at 28999 S. Lower Valley Road, Tehachapi, California. Every person has the right to inspect any District record except those records exempted by statute from public disclosure.

All requests for inspection or photocopies of District records other than typical billing and account information shall be forwarded to the Secretary of the Board of Directors ("Secretary") for processing.

When a member of the public requests the inspection of a public record, or requests a copy of a public record, and to the extent such records are not exempt, the Secretary shall, to the extent reasonable, assist the individual in identifying records that are responsive, describe the information technology in which the record exists, and provide suggestions for overcoming any practical basis for denying access to the record.

To the extent identifiable public records exist in electronic format, and access to which is not otherwise restricted by law, and to the extent the information is not exempt from disclosure, the information shall be made available to the public in such format, but only if the production will not jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained. The person requesting the information shall bear the cost of producing the record, including the cost to construct the record, and the cost of programming and computer service to produce the record when the District is requested to produce a copy of an electronic record that is produced only at otherwise regularly scheduled intervals or that request requires data compilation, extraction, or programming to produce.

#### **IV. PROCEDURE:**

1. District staff shall provide a "Request for Public Records" form to each individual who requests the inspection or photocopies of District records and shall assist the individual in completing the form if so requested.
2. Upon receipt of a completed Request, the District will, when appropriate:
  - a. Indicate the place within which the inspection must be made and the time limitation, if any, for return of the documents.
  - b. Supervise and assist the requestor in reviewing the records.
  - c. Provide copies upon request and after payment of the appropriate fees.

The District may temporarily deny or restrict inspection of public records under the following circumstances:

1. At the time of the request the records are required by District staff in performing their duties.
2. Other persons are inspecting or are waiting to inspect the records.
3. The records need to be retrieved from storage.
4. At the time of the request supervision of inspection of the records is not possible because of the unavailability of appropriate District personnel.
5. A question exists as to the possible exemption of the record from disclosure and the matter must be referred to legal counsel for determination.
6. Any notification of denial of any request for records shall set forth the name and title or position of the District personnel responsible for the denial.

#### **V. RESPONSE:**

1. The Secretary will respond to all requests as soon as possible, but not later than the ten-day period, or extensions thereof, as provided by Government Code Sections 6256 and 6256.1
2. The Secretary shall review the request and determine whether the request seeks identifiable records and, if not, the Secretary shall so advise the person making the request.
3. The Secretary shall request all District Departments which may have the records being requested to search their files and report back to the Secretary on whether the Department has the records and, if so, when the records can be made available to the person seeking them.
4. The Secretary shall respond to the person requesting records by advising him or her in writing of the availability of the documents and whether disclosure of any of the documents is exempt under the provisions of the Public Records Act.
5. If a request is made for copies of the records, the Secretary shall also advise the person requesting copies of the estimated costs of copying the records requested.
6. The person requesting the copies shall pay the per page charge for copying as set forth by resolution of the Board of Directors for all copies requested. The Secretary shall not make the requested copies until a deposit in the amount of the estimated costs of copying is received and shall not release the copies until the full cost of copying is paid to the District.
7. In accordance with the Public Records Act, the District will provide only specific identifiable records but will not research District records for particular types of information or analyze information which may be contained within public records.

## **V. FEES:**

Requests for copies of an identifiable public record are subject to payment of the appropriate fee as determined by District staff based on cost to the District. Any fee established may be modified from time to time by the Board of Directors to reflect actual chargeable costs, and any fee schedule developed shall be made available by the District's Secretary of the Board. Where the State Legislature has established a statutory fee for any given record, the statutory fee shall be charged.

## **VI. RECORDS NOT OPEN FOR INSPECTION:**

The following records are not open for public inspection:

1. Preliminary drafts, notes or interagency or intra-agency memoranda which are not retained by the District in the ordinary course of business.
2. Records pertaining to pending litigation to which the District is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.
3. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
4. Geological and geophysical data, plant production data, and similar information, relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.
5. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination.
6. The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the District relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained.
7. Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
8. Statements of personal worth or personal financial data required by the District acting in the capacity of a licensing agency and filed by an applicant with the District to establish his personal qualifications for the license, certificate, or permit he seeks.
9. Memoranda, correspondence, and writings submitted to the District or its Board of Directors by District's legal counsel pursuant to the attorney-client privilege.
10. The District is prohibited from allowing public access to "trade secrets." "Trade secrets" as used in this context may include, but is not limited to, any formula, plan, pattern, process, tool mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.
11. Records pertaining to a utility customer, except to an agent or authorized family member of the customer in question, governmental or law enforcement agencies when appropriate, or unless disclosure is specifically required by law.
12. Documents related to Vulnerability Assessment.

13. The District also possesses the discretion to claim an exemption in those instances where the public interest served by not making the record public clearly outweighs the public interest served by disclosure.