

# ROCK-KOSHKONONG LAKE DISTRICT

## RESOLUTION 2018-1

### **PUBLIC RECORDS POLICY**

#### **1. INTRODUCTION**

Access to records maintained by local governments in Wisconsin is governed by the Open Records Law, Subchapter II of Chapter 19 of the Wisconsin Statutes. The Rock-Koshkonong Lake District (“RKLD”) is a public inland lake protection and rehabilitation district organized pursuant to Subchapter IV of Chapter 33 of the Statutes. The RKLD Board is made up of seven commissioners, each of which is an elective or appointive local public office within the meaning of the Open Records Law. The RKLD Board adopts this Public Record Policy to establish procedures under which the public may request access to RKLD records, make requests for records, obtain copies of records and obtain information regarding costs involved in such requests.

#### **2. RECORDS SUBJECT TO PUBLIC RECORDS POLICY**

As provided by Section 19.32(2) of the Wisconsin Statutes, “records” subject to public requests for disclosure are defined as:

Any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. “Record” includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes, optical disks, and any other medium on which electronically generated or stored data is recorded or preserved.

“Record” does not include drafts, notes, preliminary computations and like materials prepared for the originator’s personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

The Open Records Law does not require the District to respond to questions or prepare documents in response to an open record request.

### 3. ACCESS TO RECORDS

Requests for public records are subject to a determination by the custodian concerning whether such information or record is subject to release. The Open Records Law presumes complete public access to public records, except as follows:

- a. **Restrictions and Exceptions.** The general presumption is that records are not available to the public if there is: (1) a clear statutory exception; (2) a common law limitation; or (3) an overriding public interest in keeping the record confidential. If possible, information or data that cannot be released will be redacted and the resulting edited record will be released.
- b. **Balancing Test.** If there is no statutory or common law prohibition on disclosure, the Custodian shall conduct a “balancing test”, weighing the public’s presumed interest in disclosure against the harm to public interests, if any, that would result from disclosure.

### 4. RECORDS CUSTODIANS

#### a. Designated Custodians

- i. The RKLD Treasurer shall be the custodian of the records of RKLD’s financial records, including records of all receipts, disbursements, account records, and financial and audit reports.
- ii. The RKLD Secretary shall be the custodian of all other RKLD records, including notices, minutes, and hearings of the Board of Commissioners, the Annual and any Special Meetings of the District electors and property owners.

#### b. Duties of Custodian

- i. Persons designated as custodians are responsible for collecting, preserving and maintaining public records of the District until they may be destroyed, as provided under this policy. No record may be destroyed while a request involving that record is pending or anytime within (60) days after a request for the record has been denied or until related litigation is complete (or 90 days if the requester is incarcerated or committed).
- ii. Custodians shall be responsible for responding to requests to inspect public records of the District. The custodian shall arrange to provide access to such records as soon as practicable, consistent with the requirements of the Wisconsin public records law, and, if requested, shall arrange for any such documents to be copied.

## 5. PROCEDURE

- a. **Form of Request.** Requests for access to public records shall be submitted in writing, addressed to the RKLK Custodian identified above as having assigned responsibility for the records desired. A request for access to a public record must be reasonably specific as to subject matter and length of time for which records are sought. If the Custodian determines that the request is so general as to be unduly time consuming or confusing, the party making the request may be contacted to clarify the scope of the request. A request may be denied if the particular record is not maintained or is exempted by State law from the definition of a public record, pursuant to Wis. Stat. §19.35(1).
- b. **Response to Request.** As a public inland lake district with a volunteer Board, RKLK does not rent or staff an office where its records are maintained and can be inspected. Accordingly, open record requests will generally require the Custodian to search and collect records from multiple local public offices. The Custodian shall respond to a basic record request within 10 days. For requests that are broader in scope, or that require review or redaction of many documents, a reasonable time for responding may be longer than 10 days, in which case the Custodian shall notify the requester within 10 days that a response is being prepared. The Custodian shall respond to the requester in writing as soon as practicable to arrange a time and place for the requester to inspect records or with an estimate of the costs for locating, photocopying and mailing the records, and shall notify the requester in writing if no responsive records exist.
- c. **Records Withheld from Request.** In the event the Custodian determines that a request must be denied in whole or in part, the Custodian shall notify the requester in writing with specific reasons for the denial and shall describe the nature of the record in sufficient detail for the requester to understand the type and number of records being withheld.
- d. **Appeal.** Denial of a record request is subject to judicial review in an action for mandamus under Wis. Stat. § 19.37(1), or by application to the local district attorney or Attorney General under Wis. Stat. § 19.35(4)(b).

## 6. FEE SCHEDULE

- a. **Photocopy or Reproduction Charges.**
  - i. Photocopies of 8 ½ by 11” records will be provided at \$0.22 per page for black and white copies.
  - ii. Photocopies of color or oversized records will be provided at the actual, necessary and direct costs incurred by the District.

- iii. Electronic files will be provided at the actual, necessary and direct costs incurred by the District to copy, produce and deliver the electronic records.
  - iv. The District will charge the actual, necessary and direct costs incurred for shipping or mailing copies of District records to the requestor.
- b. **Location Charges.** Locating a record means to find it by searching and examining paper and electronic storage media. Subsequent review and redaction of the record (if necessary) are separate processes not included in the location of the record. Costs charged by the District's accountants, attorneys or financial institutions for copies of statements, invoices and other records will be passed through to the requestor. Costs associated with locating records may be charged if they total \$50.00 or more. An estimate of such costs will be provided to the requester unless the requester waives this estimate.
- c. **Advance Payment.** Advance Payment may be required by the District whenever the costs of reproduction and/or postage exceed \$5.00 and whenever the cost of locating a record is estimated to be \$50.00 or more.

## 7. **DISPUTES OR CONFLICTS**

In the event of any conflict between this Policy and the Wisconsin Statutes, as amended from time to time, the Wisconsin Statutes shall control.