WEBER-BOX ELDER CONSERVATION DISTRICT

RECORDS ACCESS AND MANAGEMENT POLICY
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WEBER-BOX ELDER CONSERVATION DISTRICT

RECORDS ACCESS AND MANAGEMENT POLICY

Section 1 - General Purpose

A. The Weber-Box Elder Conservation District adopts this policy to establish guidelines for open government information recognizing the need to maintain and preserve accurate records, provide public access to public records and preserve the right of privacy of personal data collected or received by the district.

Section 2 - District Policy

A. In adopting this policy, the Weber-Box Elder Conservation District recognizes the enactment of Government Records Access and Management Act (Sections 63-2-101 et seq) and the application of that act to the District records (See Appendix I). The purpose of these policies is to conform to Section 63-2-701 which provides that each political subdivision may adopt an ordinance or a policy relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention and amendment of records. The intent of this policy is to provide modifications to the general provision of State law, where allowed, to best meet the public needs, operation, management capabilities and resources of the district.

Section 3 - Compliance with State Law

A. In adopting the policy, the Weber-Box Elder Conservation District recognizes the following sections of the Government Records Access and Management Act apply to the District and adopted by reference these provisions as part of this policy. Any inconsistency or conflict between this policy and the following reference statutes shall be governed by the statute. (See full text of referenced statutes in Appendix I of the policy).

Part 1 General Provisions

* 63-2-101	Short title
* 63-2-102	Legislative intent
* 63-2-103	Definitions
* 63-2-104	Administrative Procedures Act not applicable
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Part 2 Access to Records

* 63-2-201	Right to inspect records and receive copies of records
* 63-2-202	Access to private, controlled and protected documents
* 63-2-205	Denials
* 63-2-206	Sharing records

Part 3	Classification	
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	* 63-2-302	Private records
	* 63-2-303	Controlled records
	* 63-2-304	Protected records
	* 63-2-305	Procedure to determine classification
	* 63-2-306	Duty to evaluate records and make designations and classifications
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Part 9	Archives and Records Service	
	* 63-2-905	Records Declared property of the State - Disposition
	* 63-2-907	Right to replevin
Part 10	Other	
	* 63-30-10.6	Attorneys' fees for records request

Section 4 - Definitions

As used in this ordinance, the following definitions shall be applicable.

A. "Act" shall refer to the Government Records Access and Management Act, * 63-2-1, et seq., Utah Code Annotated, 1953, as amended.

B. "District" shall refer to the Weber-Box Elder Conservation District or any public or private entity which pursuant to contract with the District has agreed to produce and maintain public District records.

C. "Computer software program" means the series of instructions or statements that permit the fuctioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system, and any associated documentation, manuals, or other source material explaining how to operate the software program. "Software" does not include the original data or record which is manipulated by the software.

D. "Controlled" records shall be those defined as controlled under the provisions of the Act.

E. "Data" shall refer to individual entries (for example, birth date, address, etc.) in records.

F. "Dispose" means to destroy, or render irretrievable or illegible, a record or the information contained in it by any physical, electronic, or other means, including unauthorized deletion or erasure of electronically recorded audio, visual, nonwritten formats, data processing, or other records.

G. "Non-public" records shall refer to those records defined as private, controlled, or protected under the provisions of the Act.

H. "Private" records shall refer to those records classified as private under the provisions of the Act.

I. "Protected" records shall refer to those records classified as protected under the provisions of the Act.

J. "Public" records shall refer to those records which have not been classified as nonpublic in accordance with provisions of the Act.

K. (1) "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, used, received, or retained by the District where all the information in the original is reproducible by some mechanical, electronic, photographic or other means.

(2) "Record" does not mean:

(a) Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of a person for whom he is working;

(b) Materials that are legally owned by an individual in his private capacity;

(c) Materials to which access is limited by the laws of copyright or patent;

(d) Junk mail or commercial publications received by the district or by an officer or employee of the District;

(e) Personal notes or daily calendars prepared by any District employee for personal use or the personal use of a supervisor or such notes, calendars or internal memoranda prepared for the use of an officer or agency acting in a quasi-judicial or deliberative process or pursuant to matters discussed in a meeting closed pursuant to Utah Open Meetings Act; or

(f) Proprietary computer software programs as defined in subsection C. above that are developed or purchased by or for the District for its own use.

Section 5 - Public Right to Records

A. Members of the public shall have the right to see, review, examine and take copies, in any format maintained by the District, of all District governmental records defined as "public" under the provisions of this Policy, upon the payment of the lawful fee and pursuant to the provisions of this Policy and the Act.

B. The District has no obligation to create a record or record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.

C. When a record is temporarily held by a custodial District agency, pursuant to that custodial agency's statutory functions, such as records storage, investigation, litigation or audit, the record shall not be considered a record of the custodial agency for the purposes of this Policy. The record shall be considered a record of the District and any requests for access to such records shall be directed to the District rather than the custodial agency, pursuant to these procedures.

Section 6 - Public, Private, Controlled and Protected Records

A. Public records shall be those District records as defined in the Act, * 63-2-201 (U.C.A., 1953, as amended). Public records shall be made available to any person. All District records are considered public unless they are (1) expressly designated, classified, or defined otherwise by the District in accordance with policies and procedures established by this Policy, (2) are so designated, classified or defined by the Act, or (3) are made non-public by other applicable law.

B. Private records shall be those District records classified as "private", as defined in the Act * 63-2-302 (U.C.A., 1953, as amended) and as designated, classified, or defined in procedures established pursuant to this Policy. Private records shall be made available to the following persons: The subject of the record, the parent or legal guardian of a minor who is the subject of the record, the legal guardian of an incapacitated individual who is the subject of the record, any person who has a power of attorney or a notarized release from the subject of the record or his legal representative, or any person possessed of an serving a legislative subpoena or a court order issued by a court of competent jurisdiction.

C. Controlled records shall be those District records classified as "controlled", as defined in the Act, * 63-2-303 (U.C.A., 1953, as amended) and as designated, classified, or defined in procedures established in this Policy. Controlled records shall be made available to a physician, psychologist, or licensed social worker who submits a notarized release from the subject of the record or any person presenting a legislative subpoena or a court order signed by a judge of competent jurisdiction.

D. Protected records shall be those District records classified as "protected", as defined in the Act, * 63-2-304 (U.C.A., 1953, as amended) and as designated, classified or defined in procedures established in this Policy. Protected records shall be made available to the person who submitted the information in the record, to a person who has power of attorney or notarized release from any persons or governmental entities whose interests are protected by the classification of the record, or to any person presenting a legislative subpoena or a court order regarding the release of the information and signed by a judge or competent jurisdiction.

Section 7 - Privacy Rights

A. The District recognizes and upholds the personal right of privacy retained by persons who may be the subject of governmental records.

B. The District may, as determined appropriate by the manager, notify the subject of a record that a request for access to the subject's record has been made.

C. The District may require that the requester of records provide a written release, notarized within thirty (30) days before the request, from the subject of the records in question before access to such records is provided.

Section 8 - Designation, Classification and Retention

A. All District records and records series, of any format, shall be designated, classified and scheduled for retention according to the provisions of the Act and this Policy. Any records or record series generated in the future shall also be so designated, classified and scheduling for retention shall be conducted under the supervision of the District Records Officer.

Section 9 - Procedures for Records Request

A. Under circumstances in which a District is not able to immediately respond to a records request, the requester shall fill out and present to the District a written request on forms provided by the District. The date and time of the request shall be noted on the written request form and all time frames provided under this Policy shall commence from that time and date. Requesters of non-public information shall adequately identify themselves and their status prior to receiving access to non-public records.

B. The District may respond to a request for a record by approving the request and providing the records, denying the request, or such other appropriate response as may be established by policies and procedures.

C. (1) In most circumstances and excepting those eventualities set out below, the District shall respond to a written request for a public record within ten business days after that request.
(2) Extraordinary circumstances shall justify the District's failure to respond to a written request for a public record within ten business days and shall extend the time for response thereto that time reasonably necessary to respond to the request, as determined by the District Manager. Extraordinary circumstances shall include but not be limited to the following:

(a) Some other governmental entity is currently and actively using the record requested;
(b) The record requested is for either a voluminous quantity of records or requires the District to review a large number of records or perform extensive research to locate the materials requested;
(c) The District is currently processing either a large number of records requests or is subject to extraordinary seasonal work loads in the processing of other work;
(d) The request involves an analysis of legal issues to determine the proper response to the request;
(e) The request involves extensive editing to separate public data in a record from that which is not public; or
(f) Providing the information request requires computer programming or other format manipulation.

(3) When a record request cannot be responded to within ten (10) days, the District Manager shall give the requester an estimate of the time required to respond to the request.

D. The failure or inability of the District to respond to a request for a record within the time frames set out herein, or the District's denial of such a request, shall give the requester the right to appeal as provided in Section 11.

Section 10 - Fees

A. Applicable fees for the processing of information requests under this Policy shall generally be set at actual cost or as otherwise established by policies adopted under this Policy. The Weber-Box Elder Conservation District will charge the following fees for requests relating to the Government Records Access and Management Act:

1. Reviewing a record to determine whether it is subject to disclosure.....No Charge

2. Inspection of record by requesting person.....No Charge

3. Copy Fees:
   8 1/2 X 11" to 11" X 17" Xerox..... .50 cents per page
   Blueprints..... $1.00 per page

4. Computer Disk.....Actual Cost (including overhead and time of district staff in preparation of informatio request)

5. Other Forms.....Actual Cost (same as #4)

6. Miscellaneous Fees.....Actual Cost (same as #4)

Section 11 - Appeal Process

A. Any person aggrieved by the District's denial or claim of extra-ordinary circumstances may appeal the determination within 30 days after notice of the District's action to the district manager by filing a written notice of appeal. The notice of appeal shall contain the petitioners name, address, phone number, relief sought and if petitioner desires, a short statement of the facts, reasons and legal authority for the appeal.

B. If the appeal involves a record that is subject to business confidentiality or affects the privacy rights of an individual, the district manager shall send a notice of the requester's appeal to the effected person.

C. The district manager shall make a determination on the appeal within 30 days after receipt of the appeal. During this 30 day period the district manager may schedule an informal hearing or request any additional information deemed necessary to make a determination. The district manager shall send written notice to all participants providing the reasons for the district manager's determination.

D. In addition, if the district manager affirms the denial in whole or in part, the denial shall include a statement that the requester has a right to appeal the denial to the district's Board of Directors within thirty days at the next scheduled meeting.

E. The person may file a written notice of appeal to the Board of Directors to be heard at the next scheduled meeting of the Board. If there is no meeting scheduled in the next thirty days the Board of Directors shall schedule a meeting for the purpose of hearing the appeal. The final decision of the Board of Directors shall be by majority vote of a quorum of the Board. The Board shall prepare a written decision outlining their final determination and reasons for the final determination.

F. If the Board of Directors affirms the denial, in whole or in part, the person may petition for judicial review in district court as provided in Section 63-2-404 UCA.

Section 12 - Reasonable Accommodation

A. Reasonable accommodations regarding access to governmental records shall be provided to persons with disabilities in accordance with the Americans with Disabilities Act upon request of the applicant.

Section13 - Records Amendments

A. Government records held by the District may be amended or corrected as needed. Requests for amendments, corrections, or other changes shall be made in writing to the District having custody of the records and setting forth, with specificity, the amendment or correction requested. When an amendment or correction of a government record is made, both the original record and the amended or corrected record shall be retained, unless provided otherwise by the Act or other State or Federal law.

B. In accordance with the Act, neither the District nor any of its officers or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

Section 14 - Penalties

A. District employees who knowingly refuse to permit access to records in accordance with the Act and this Policy, who knowingly permit access to non-public records, or who knowingly, without authorization or legal authority, dispose of, alter, or remove records or allow other persons to do so in violation of the provisions of the Act, this Policy or other law or regulation may be subject to criminal prosecution and disciplinary action, including termination.

B. In accordance with the Act, neither the District nor any of its officers or employees shall be liable for damages resulting from the release of a record where the requester presented evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

Section 15 - Records Officer

A. There shall be appointed a District Records Officer to oversee and coordinate records access, management and archives activities. The Records Officer shall make annual reports of records services activities to the Board of Directors.

Section 16 - Records Maintenance

A. Records Maintenance procedures shall be developed to ensure that due care is taken to maintain and preserve District records safely and accurately over the long term. The Records Officer shall be responsible for monitoring the application and use of technical processes in the creation, duplication, and disposal of District records. He/she shall monitor compliance with required standards of quality, permanence, and admissibility pertaining to the creation, use, and maintenance of records.

B. All District records shall remain the property of the District unless federal or state legal authority provides otherwise. Property rights to District records may not be permanently transferred from the District to any private individual or entity, including those legally disposable obsolete District records. This prohibition does not include the providing of copies of District records otherwise produced for release or distribution under this chapter.

C. Custodians of any District records shall, at the expiration of their terms of office, appointment or employment, deliver custody and control of all records kept or received by them to their successors, supervisors, or to the District Records Officer.

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