

Board Policies & Procedures	Topic No.: 101
Function: Public Records	Topic: Public Records Act Policy and Procedure
	Date: January 2015

Carmel Area Wastewater District Policies and Procedures

Public Records Act Policy and Procedure

I. Purpose

In accordance with Article I, Section 3 of the California State Constitution, the Carmel Area Wastewater District (CAWD) makes public records available to the public upon request. CAWD has established the following guidelines to ensure that members of the public fully understand and are afforded the opportunity to use their constitutional right to review and obtain copies of public records.

II. Definition

Government Code Section 6252(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

III. Procedure

Request for Copies

Requests to review or receive a copy of a public record should be directed to the CAWD General Manager (to be reviewed by District Counsel). Except with respect to public records exempt from public disclosure by express provisions of the law, CAWD staff will respond to public records requests at the earliest opportunity, but in the event a response is going to take longer than 10 days, the requesting party must be notified, in writing, within 10 days of receipt of the original request, of the approximate amount of time required to provide the information requested. Public records shall be made available to any person upon payment of fees covering direct costs of duplication (see Section IV.). A written request is not required to review or obtain a copy of a public record but if provided will enable CAWD staff to more readily accommodate the request, especially if it is complex. The request should include a telephone number or other contact reference where the person requesting the record can be reached in the event the request needs clarification. The CAWD will make every effort to assist the requestor in identifying records and information that are responsive to the request or to the purpose of the request. Written requests should be addressed to: Carmel Area Wastewater District, General Manager, P.O. Box 221428, Carmel, CA 93922 or faxed to (831) 624-0811.

Request to Review Records

It is the policy of CAWD that public records shall be available for review with the least possible delay and expense to the requesting party. However, the review of public records is subject to a rule of reason as to time and duration and must be consistent with the efficient functioning of our offices. Any person who wishes to review public records is requested to telephone CAWD General Manager in advance and make an appointment to review the records. CAWD staff will be available to assist the requestor during the appointed review time. The requestor will be provided with the records and a workspace. CAWD staff will ensure that no records are removed or altered. If the requestor asks for copies of certain records, CAWD General Manager will arrange for the copies to be made and notify the requestor of the cost prior to duplication. Public records are open to review during CAWD office hours: 8:00 a.m. – 5:00 p.m., Monday through Friday, except District holidays.

Failure to make an appointment in advance may result in a delay due to Staff availability and the time required to locate the requested records.

IV. Fees

There is no charge to access public records for review; however, a request for a copy of an identifiable public record or information produced therefrom must be accompanied by payment of fees to cover the direct costs of duplication.

Photocopies: There is no charge for copies totaling less than 10 pages. For 10 or more pages, the photocopying fee is \$.10 per standard reproduced one-sided page and \$.20 per standard reproduced double-sided page. Any request requiring duplication of more than 25 pages may be based on actual costs incurred by CAWD in sending records to an outside photocopy service for duplication. All photocopies will be double-sided unless the original is in a bound format.

Electronic Copies: If the records are contained in a form other than hard copies, i.e., computer CD, diskette, cassette or videotape, duplication costs will be based on actual costs.

V. Records exempt from public disclosure

In balancing the public's right to access public records with the recognized individual right of privacy and the need for public agencies to be able to competently perform their duties, the Legislature has established certain categories of records that may be exempt from public disclosure.

A complete list of statutory exemptions is found in the California Public Records Act, Government Code Section 6254 and 6275 et seq. Some that are relevant to CAWD records include:

- i. Preliminary drafts, notes, or inter-agency/intra-agency memoranda that are not retained by the CAWD in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest

- in disclosure;
- ii. Records pertaining to pending litigation to which CAWD is a party, or to claims made pursuant to Government Code Division 3.6 (commencing with Section 810) until such litigation or claim has been finally adjudicated or otherwise settled;
 - iii. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;
 - iv. Geological data, plant production data and similar information relating to utility systems development, that are obtained in confidence from any person;
 - v. Information regarding individual services that, if released, would violate customer privacy (e.g. location of service, usage history, payment records, etc.);
 - vi. Test questions, scoring keys, and other examination data used to administer a licensing examination for employment or academic examination;
 - vii. The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency 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. However, the law of eminent domain shall not be affected by this provision;
 - viii. 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;
 - ix. Proprietary software programs developed specifically for CAWD or water system design information (e.g. Geographic Information Systems, computer models, engineering documents, location of water facilities, etc.) which could be used to breach water system security, or altered to misrepresent information, or utilized for profit will not be released without the prior authorization of District Legal Counsel and execution of a license agreement or similar document certifying the reason for the release of this information to the requestor and restrictions on the requestor's use of the information. In some cases, the District is prohibited by licensing agreements from providing copies of proprietary software.

In addition, the Act also bestows a local agency (CAWD) with the discretion to claim an exemption from public disclosure for records, that do not qualify for a specific exemption under the California Public Records Act, if it is determined by CAWD that the public interest served by not making the record public clearly outweighs the public interest served by disclosure, pursuant to Government Code Section 6255. Any notification of denial of any request for records will include the names and titles or positions of each person responsible for the denial. While CAWD will disclose identifiable and existing records, CAWD is not required to synthesize, manufacture, or summarize records, i.e., develop new records in response to a request.

In the event there is a question as to whether records are exempt from disclosure, CAWD shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of discloseable public records in the possession of CAWD and

shall promptly notify the requestor of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the General Manager of CAWD or his/her designee to the person making the request, setting forth the reasons for the extension and the date a determination is expected. No notice shall specify a date resulting in an extension of more than 14 days. In addition, if there is a large amount of material to compile, or there is a question regarding the status of the requested records, the requestor will be notified by CAWD staff of the approximate time frame involved in filling the request. (“Unusual circumstances” as used in this section is defined in the California Public Records Act, Government Code Section 6253 et seq.).

VI. [Process to challenge the District's determination not to disclose certain records](#)

The California Public Records Act, Government Code Section 6258, provides that any person may seek injunctive or declarative relief in any court of competent jurisdiction to enforce the right to inspect or to receive a copy of any public record. Prior to seeking an injunction, the party seeking the public record may appeal the decision of the General Manager to the Board of Directors, but is not required to do so.

VII. [Procedure for lending reports and other materials](#)

Reports and studies received by CAWD's Board of Directors can be checked out with a refundable cash deposit in an amount equivalent to the duplication cost of the report or study, provided there are multiple copies available. The report or study must be returned in the same condition within two weeks from the date that it is checked out. If the report is not returned or it is damaged or defaced, the requestor will forfeit the deposit. If only the Permanent File Copy of the report or study remains, a requestor may review the Permanent File Copy at the CAWD office or may request that a copy be made. The charge for copying will be based on actual costs incurred by CAWD to duplicate the report in its entirety.

Other materials such as videos or DVD's may be checked out on the same basis described above; however, duplication of some materials may not be possible.

**PUBLIC RECORDS REVIEW
REQUEST**

Instructions

- A. District staff receiving telephone requests for records review, or copies of records to be mailed, should complete PART A.
- B. For a walk-in request, the requester should complete PART A.
- C. PART B should be completed by the person retrieving the record.
- D. District staff must file the completed form in the file from which the record was retrieved.

PART A

1. Name:

2. Address:

E-mail:

Phone:

3. Date of this Request:
4. Requestor wishes to review the following document title(s) or subjects(s):
5. Approximate date(s) of documents(s):

PART B

Check one of the following and fill in the necessary information.

1. Record(s) was/were located and reviewed on _____ '20_____.
2. Record(s) was/were located and mailed/e-mailed to requestor on _____, 20_____.
3. Record(s) could not be located from the information provided.
4. Other - Please explain below.

CARMEL AREA WASTEWATER DISTRICT

NOTICE REGARDING RECORDS REQUEST

Your request to inspect and/or obtain records of the Carmel Area Wastewater District is being:

- Granted.
- You may inspect and/or obtain the records at the District's headquarters on _____
- Copies enclosed
- E-mailed
- Denied for the reasons stated below
 - Temporarily denied for the reasons stated below. You will be notified within 10 days following receipt of your request when the records will be available for inspection or whether it has been determined that the records are exempt from disclosure.

Dated: _____

Name

Title

Please check all that apply.

- The records are exempt from disclosure pursuant to Government Code Section 6254.
- The District has determined that the records are exempt from disclosure based upon the finding that the public interest served by not making the record public clearly outweighs the public interest served by the disclosure of the record. (Government code Section 6255.)
- The records could not be located from the information provided.
- The records are temporarily unavailable for inspection.
- The appropriate District personnel are temporarily unavailable to supervise the inspection of the records.
- A question exists as to the possible exemption of the record from disclosure and the matter has been referred to legal counsel for determination.

There is no charge for copies totaling less than 10 pages. For 10 or more pages, the photocopying fee is \$.10 per standard reproduced one-sided page and \$.20 per standard reproduced double-sided page. Any request requiring duplication of more than 25 pages may be based on actual costs incurred by CAWD in sending records to an outside photocopy service for duplication. All photocopies will be double-sided unless the original is in a bound format. Fees for other types of reproduction (e.g., photographs, video tapes, etc.) will be based on the cost to the District.

If you have any questions concerning your request or this notice, please do not hesitate to contact the District Office at (831) 624-1248, P.O. Box 221428, CA 93922.