

# **DUPAGE WATER COMMISSION**

## **RULES AND REGULATIONS IMPLEMENTING ILLINOIS FREEDOM OF INFORMATION ACT**

These Rules and Regulations (the “Rules”) include the procedures, instructions, and forms for requesting public records from the DuPage Water Commission under the Illinois Freedom of Information Act (the “Act”).

The Commission will respond to written requests for inspection, copying, or certification of public records in accordance with the Act, these Rules, and any other applicable law. Generally, under the Act, the Commission will provide public records for inspection or copying as requested except for records (1) that would, if disclosed, violate individual privacy, or (2) whose production would disrupt the duly undertaken work of the Commission, or (3) that are specifically exempted from disclosure by the Act or other applicable law.

Requests and other communications relating to public records must be sent to the Commission’s Freedom of Information Officer: Jenessa Rodriguez, DuPage Water Commission, Page Pumping Station, 600 East Butterfield Road, Elmhurst, Illinois 60126-4642, Phone: (630) 834-0100, Facsimile: (630) 834-0120, E-mail: [FOIAofficer@dpwc.org](mailto:FOIAofficer@dpwc.org).

### **I. INTERPRETATION**

#### **A. Conflicts**

These Rules do not supersede the provisions of the Act. If a provision of these Rules conflicts with the Act, then the provisions of the Act will govern.

#### **B. Definitions**

In addition to the definitions provided in the Act or elsewhere in these Rules, the following definitions apply:

1. Business Hours: 8:30 a.m. to 4:30 p.m. on a Business Day.
2. Business Day: Any day on which general offices of the Commission at the Commission’s headquarters are open and staffed for regular public business. Business Days generally are Monday through Friday, except certain federal and state legal holidays.
3. Freedom of Information Officer: The Freedom of Information Officer of the Commission identified above and designated under Section 3.5 of the Act.
4. Public Access Counselor: The Public Access Counselor of the Office of the Illinois Attorney General.

5. Recurrent Requestor: A Requestor that, in the 12 months immediately preceding the Request, has submitted to the Commission (i) a minimum of 50 Requests, (ii) a minimum of 15 Requests within a 30-day period, or (iii) a minimum of seven Requests within a seven-day period. However, Requests made by news media and non-profit, scientific, or academic organizations will not be considered in calculating the number of Requests made in the time periods for determining Recurrent Requestor status if the principal purpose of the requests is (a) to access and disseminate information concerning news and current or passing events, (b) for articles of opinion or features of interest to the public, or (c) for the purpose of academic, scientific, or public research or education.
6. Request: A request to inspect, copy, or certify public records.
7. Request Made for Commercial Purposes: A Request made with the intent to use the requested records (or the information derived from those records), in whole or in part, for sale, resale, or solicitation or advertisement for sales or services. However, a Request submitted by news media or by non-profit, scientific, or academic organizations will not be deemed to be made for commercial purposes if the principal purpose of the Request is (a) to access and disseminate information concerning news and current or passing events, (b) for articles of opinion or features of interest to the public, or (c) for the purpose of academic, scientific, or public research or education.
8. Requestor: A person, firm, or corporation that files a Request with the Commission.
9. Response Time: The time for response by the Commission to a request for public records, as calculated pursuant to Subsection III.A of these Rules.

**C. Days; Measurement of Time**

1. Days. In counting the number of days allowed for a response or a decision to be given by the Commission under the Act and these Rules, the Commission will not include the day on which the request or notice requiring the response or decision was first received.
2. Supplemental Requests. Supplemental, amended, or additional Requests will not relate back to the time of receipt of the initial Request. Supplemental, amended, or additional Requests will be considered new Requests for purposes of determining the applicable Response Time and Recurrent Requestor status.
3. Response Date. All responses and decisions to be issued by the Commission under the Act and these Rules will be deemed to have been given on the date of personal delivery to the person or to the residence of the person entitled to the response or decision or, if mailed, on the date of

mailing, regardless of the date of actual receipt by that person. Each response and decision will include proof of service evidencing the method by which, and time at which, the response or decision was delivered.

## **II. REQUESTS FOR INSPECTION, COPYING, OR CERTIFICATION OF PUBLIC RECORDS**

### **A. Officials Responsible for Responding to Requests**

The Freedom of Information Officer is the person administratively responsible for receiving and processing Requests.

The Freedom of Information Officer is the person with authority on behalf of the Commission to grant or deny Requests, to extend the Response Time, and to issue the appropriate notices with respect to all related matters. The Freedom of Information Officer may consult with Commission staff, officials, and others as appropriate before responding to a Request.

The Commission may, from time to time, appoint Deputy Freedom of Information Officers to assist the Freedom of Information Officer in the performance of his or her duties under the Act and these Rules. In the absence of the Freedom of Information Officer, the Deputy Freedom of Information Officers are authorized to grant or deny Requests, to extend the Response Time, and to issue the appropriate notices with respect to all related matters.

### **B. Form of Request**

1. Required Information. A Request must be filed with the Commission in writing and in English. The Commission encourages Requestors to submit requests on the convenient form attached to these Rules ("Official Request Form") or in a similar form that contains, at a minimum, the following information:
  - a. The Requestor's name;
  - b. Either the Requestor's mailing address, e-mail address, or telephone number;
  - c. A description of the public records requested;
  - d. A statement of purpose, indicating whether the Requestor intends to use the records, or the information derived from those records, for sale, resale, solicitation, or advertisement for sales or services;
  - e. A statement of whether the Requestor is, or represents, news media or a non-profit, scientific, or academic organization; and
  - f. A statement of whether the principal purpose of the Request is either (i) to access and disseminate information concerning news

and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) academic, scientific, or public research or education.

Use of the Official Request Form is the most effective way to obtain a prompt, full, and complete response by the Commission to a Request.

2. Supplemental Information. If a Requestor submits a Request on a form other than the Official Request Form, and the Request does not contain all of the information required pursuant to Paragraph II.B.1 of these Rules, then the Requestor must complete a Supplemental Information form or similar writing.
3. Requests Must Be Complete. No Request will be deemed complete unless it contains, at a minimum, all of the information required pursuant to Paragraph II.B.1 of these Rules.
4. Subpoenas. Except as provided in Section 9.5(c) of the Act, these Rules will not apply to any subpoena for records received by Commission and issued by, or in accordance with the rules of, a court or agency of competent jurisdiction.

### **C. Submittal of Request**

Completed Requests must be filed with the Commission Freedom of Information Officer by mail, facsimile, overnight courier service, electronic mail, or in person, in accordance with the following:

1. In-Person Submissions. Requests submitted in person must be given to the Freedom of Information Officer or filed in the office of the Commission Clerk.
2. Electronic Mail Submissions. Requests submitted by electronic mail must be sent directly to the Freedom of Information Officer at [FOIAofficer@dpwc.org](mailto:FOIAofficer@dpwc.org) and will be deemed received only upon actual receipt by the Freedom of Information Officer on a Business Day during Business Hours, regardless of date or time of submission.
3. All Other Submissions. Requests submitted by mail or other means must be addressed to the Freedom of Information Officer at the Commission headquarters and will be deemed received only upon actual receipt by the Commission on a Business Day, regardless of date of submission. Requests submitted in person must be given to the Freedom of Information Officer or filed in the office of the Commission Clerk. Requests submitted by mail or other means must be addressed to the Freedom of Information Officer at the Commission's headquarters and will be deemed received only upon actual receipt by the Commission on a Business Day, regardless of date of submission.

All Commission officials and employees who receive a Request must immediately forward that Request to the Freedom of Information Officer.

#### **D. Processing of Request**

1. The Freedom of Information Officer must complete the Checklist attached to these Rules immediately upon receipt of the Request. If the Freedom of Information Officer determines that the Request is not complete, as provided in Section II of the Checklist, the Freedom of Information Officer must mail a Notice of Incomplete Request form and a Supplemental Information form to the Requestor within five Business Days after receipt by the Commission of the Request. If the Freedom of Information Officer determines that the Request is complete, the Freedom of Information Officer must stamp or otherwise indicate on each completed Request, the date and time of receipt and, if known, the date on which the Commission must respond to the Request. In addition, the Freedom of Information Officer must send a copy of each completed Request to the Commission's Board of Commissioners within a reasonable period of time following receipt of each completed Request.
2. The Freedom of Information Officer must maintain an electronic or paper copy of the Request, including all documents submitted with the Request, until all matters related to the Request have been completed.
3. The Freedom of Information Officer must create an electronic or paper file for the retention of the original Request, a copy of the response by the Commission, a record of all written communications with the Requestor regarding the Request, and a copy of other communications related to the Request.
4. The Freedom of Information Officer must keep all Notices of Denial and all Notices of Intent to Deny issued under earlier versions of these Rules in a single central office file, indexed according to the type of exemption asserted, and, to the extent feasible, according to the types of records requested.

### **III. RESPONSES TO REQUESTS**

#### **A. Time for Response**

1. Requests Made for Commercial Purposes. The Commission will respond within 21 Business Days after a completed Request Made for Commercial Purposes is received by the Commission.
2. Requests from Recurrent Requestors. The Commission will respond within 21 Business Days after a completed Request from a Recurrent Requestor is received by the Commission. The Commission, within five Business Days after a completed Request is received by the Commission from a Recurrent Requestor and using a Notice to Recurrent Requestor

form attached to these Rules or a similar written form, will also notify the Recurrent Requestor of (a) the Commission's determination to treat the Request as a Request from a Recurrent Requestor, (b) the reasons supporting that determination, and (c) the Response Time and that the Commission's response may take any form specified in this Section III except only a Notice of Extension.

3. All Other Requests. For all Requests other than Requests Made for Commercial Purposes and Requests from Recurrent Requestors, the Commission will respond within five Business Days after a completed Request is received by the Commission, unless the Commission has extended the Response Time pursuant to Paragraph III.A.4 of these Rules.
4. Extension of Time
  - a. If the Freedom of Information Officer determines that additional time is needed and allowed under the Act to respond to a Request, then the Freedom of Information Officer, using a Notice of Extension form attached to these Rules or a similar written form, will notify the Requestor within the applicable Response Time of the determination, of the reasons requiring the extension, and of the length of the extension (which may not exceed five additional Business Days). The Freedom of Information Officer may not issue a Notice of Extension for Requests Made for Commercial Purposes or for Requests from Recurrent Requestors.
  - b. The Requestor and the Commission, using an Extension Agreement form attached to these Rules or a similar written form, may agree in writing to extend the time for compliance for a period to be mutually determined. In his or her discretion, the Freedom of Information Officer may deliver to the Requestor a Request for Extension Agreement form and an Extension Agreement form. The Freedom of Information Officer is authorized to execute, in his or her discretion, an Extension Agreement after it has been executed by the Requestor. The Freedom of Information Officer must respond to the Request within the applicable Response Time, unless and until the Requestor and the Commission have executed the Extension Agreement.

## **B. Disclosure of Public Records**

1. Notice of Approval. If the Freedom of Information Officer determines that the Act requires disclosure of all or any part or portion of the requested public records, then the Freedom of Information Officer will notify the Requestor in writing of his or her determination, using the Notice of Approval form attached to these Rules or a similar written form.

2. Approval of Requests Made for Commercial Purposes. If the Request is a Request Made for Commercial Purposes, and the requested records are not immediately available for inspection or pick-up, then the Notice of Approval will specify a reasonable date on which the requested records will be available for inspection or pick-up, based on the size and complexity of the Request.
3. Approval of Requests from Recurrent Requestors. If the Request is from a Recurrent Requestor, and the requested records are not immediately available for inspection or pick-up, then the Notice of Approval will specify a reasonable date on which the requested records will be available for inspection or pick-up, based on the size and complexity of the Request.
4. Search of Commission Files and Use of Commission Equipment. Except as otherwise specifically authorized by the Freedom of Information Officer, only Commission employees, the Commission attorney, and Commission contractors are permitted to search Commission files, records, or storage areas, or to use Commission equipment in connection with any Request.
5. Removal of Original Records. Original public records may not be removed from any Commission building at any time, except as authorized by the Commission's General Manager.
6. Inspection of Public Records. Public records approved by the Freedom of Information Officer for disclosure may be inspected, or copies of public records obtained, during Business Hours at the Commission's headquarters or another location designated by the Freedom of Information Officer. Requestors must make an appointment with the Freedom of Information Officer for a date and time to inspect public records at the Commission's headquarters (or another location designated by the Freedom of Information Officer) approved by the Freedom of Information Officer for disclosure.
7. Copies of Public Records. Copies of public records approved by the Freedom of Information Officer for disclosure may be obtained during Business Hours at the Commission's headquarters or another location designated by the Freedom of Information Officer, provided that the Requestor had requested copies in the Request and has paid any applicable fees.
8. Mailing of Requested Public Records. Copies of public records will be mailed to the Requestor only if the Freedom of Information Officer reasonably determines that it is unduly burdensome for the Requestor to arrange for inspection of the original public records, or for pick up of copies of the public records, at the Commission's headquarters.
9. Audio and Video Recordings. Requests for reproduction of any public records that are audio or video recordings will be honored in accordance

with the provisions of the Act, the Illinois Open Meetings Act, any other applicable State law, and these Rules.

10. Records Maintained in Electronic Format. If the requested public records are maintained by the Commission in an electronic format, then the Commission will reproduce copies of the requested public records in the electronic format specified by the Requestor, if feasible. The Commission may charge to the Requestor the actual cost of the medium necessary for that format.
11. Payment of Fees. The Requestor must pay all copying, certification, and postage fees and, in the case of Requests Made for Commercial Purposes, search and retrieval fees and costs in advance of receiving copies of any public records.
12. Acknowledgment of Inspection. When the copies of the requested public records have been delivered or inspected, the Freedom of Information Officer and the Requestor must acknowledge delivery or inspection by execution of the Acknowledgment of Inspection form attached to these Rules or a similar written form.

### **C. Categorical Requests**

1. Notice to Meet and Confer. If the Freedom of Information Officer determines that a Request for all records falling within a category will unduly burden the Commission and that the burden to the Commission outweighs the public interest in production of the public records sought, then the Freedom of Information Officer, using a Notice for Meeting form attached to these Rules or a similar written form, will notify the Requestor in writing of the determination, of the reasons supporting the determination, and of the right of the Requestor to meet with the Freedom of Information Officer in an effort to narrow the Request.
2. Failure to Respond by Commission. The Freedom of Information Officer may neither determine that a Request is unduly burdensome, nor issue a Notice for Meeting, if the Commission has previously failed to respond to that Request within the applicable Response Time.
3. Agreement to Narrow Request. If the Requestor agrees to meet and confer with the Freedom of Information Officer regarding the Request, then the Freedom of Information Officer will respond to the Request, or to the Request as narrowed at the meeting, within the applicable Response Time, calculated from the date of adjournment of the meeting. That response may take any form specified in this Section III. If the Requestor agrees to narrow the scope of the Request, the Freedom of Information Officer will deliver an Acknowledgment of Narrowed Request to the Requestor at the conclusion of the meeting, using the form attached to these Rules or a similar written form.

4. Failure to Meet and Confer. If the Requestor does not agree to meet and confer with the Freedom of Information Officer regarding the request, then the Freedom of Information Officer will deny the Request on the fifth Business Day after the date of the Notice for Meeting, using the Notice of Denial/Partial Denial of Request form attached to these Rules or a similar written form.

#### **D. Denial**

1. Denials. If the Freedom of Information Officer determines that all, or some, or a portion of any requested public records are not subject to disclosure under any other provision of the Act or under these Rules, then the Freedom of Information Officer must deliver a notice of denial to the Requestor, using the Notice of Denial/Partial Denial of Request form attached to these Rules or a similar written form. The Freedom of Information Officer may not deliver the Notice of Denial/Partial Denial of Request to the Public Access Counselor, except upon receipt of a request therefor from the Public Access Counselor pursuant to Section 9.5(c) of the Act.
2. Contents of Denials. Each Notice of Denial/Partial Denial of Request must set forth the reason(s) for the denial, and must notify the Requestor of his or her rights to (a) seek review of the denial by the Public Access Counselor or, in the case of Requests Made for Commercial Purposes, for the limited purpose of seeking review of the determination that the Request was a Request Made for Commercial Purposes, and (b) seek judicial review under Section 11 of the Act.
3. Denials in Writing. Except as otherwise provided by the Act, all denials of Requests will be in writing.
4. Cooperation with Public Access Counselor. If the Public Access Counselor determines that further inquiry into any denied Request is warranted, the Freedom of Information Officer will comply with the directives of the Public Access Counselor, or seek appropriate review of those directives, in accordance with the Act.

#### **E. No Obligation to Create New Records**

Except as provided in Section V of these Rules, the Act and these Rules do not require the Commission, in the course of responding to Requests, to create records that the Commission does not already maintain in record form.

#### **F. No Obligation to Interpret or Advise**

Neither the Act nor these Rules require the Commission to interpret, or advise Requestors as to the meaning or significance of, any public records.

## IV. FEES

### A. Fees Established

Unless fees are waived or reduced under to Subsection IV.C of these Rules, each Requestor must pay the following fees for copying, certification, and mailing of public records:

- |    |   |                                      |
|----|---|--------------------------------------|
| 1. | Copies – 8½”x 11” or 8½” x 14”, Black and White |                                      |
|    | First 50 pages                                  | Free                                 |
|    | Additional pages                                | \$0.15 per side                      |
| 2. | Copies – 24” x 36”, Blueline                    | \$0.85 per side                      |
| 3. | Certification                                   | \$1.00 per record,<br>plus copy cost |
| 4. | Mailing   | Cost of postage                      |

If the requested records are of a type not listed above, or when the services of an outside vendor are required to copy any public record that are not 8 1/2 x 11 or 8 1/2 x 14, Black and White, then the fees charged for copying the records will be the actual charges incurred by the Commission, and the fees stated in items 1 through 4 above will not apply. The fees stated in items 1 through 4 above will also not apply if the fee for the requested records is otherwise fixed by statute. If the requested records are produced on an electronic medium, then the Requestor must pay the actual cost of the medium.

The Commission has determined that the fees in this Subsection A are no more than necessary to reimburse the Commission for the actual cost of reproducing, certifying, and mailing public records requested pursuant to the Act and these Rules.

In addition, each Requestor of a Request Made for Commercial Purposes must pay the following fees for each hour spent by personnel in searching for and retrieving a requested record:

First Eight Hours	Free
Each Additional Hour	\$10.00 per hour

If the requested record is maintained by a third-party storage company under contract with the Commission, then the Requestor of a Request Made for Commercial Purposes must also pay the actual cost of retrieving and transporting the requested record from the off-site storage facility. The Commission will provide each Requestor of a Request Made for Commercial Purposes with an accounting of all fees, costs, and personnel hours in connection with the Request.

**B. Method and Time of Payment**

Payment of all required fees must be made in cash, by cashier's or certified check, or by money order prior to the examination, copying, certification or mailing of any public record.

**C. Waiver of Fees**

The fees provided in Subsection IV.A of these Rules may be waived or reduced by the Freedom of Information Officer if the Requestor includes in the Request the specific purpose of the Request and establishes to the reasonable satisfaction of the Freedom of Information Officer that a fee waiver or reduction is in the public interest. Any request for a fee waiver or reduction must be indicated in the Request at the time the Request is filed. A subsequent request will not be considered.

A fee waiver or reduction will be considered to be in the public interest only if the principal purpose of the Request is to disseminate information regarding the public health, safety, and welfare or the legal rights of the general public. No fee waiver will be granted if the Request is for the principal purpose of personal or commercial benefit to the Requestor. The Freedom of Information Officer may consider the number of requested public records and the cost and necessity of copying them in setting the fee waiver or reduction amount.

**D. Waiver for Failure to Respond**

If the Freedom of Information Officer does not respond to a Request properly submitted pursuant to Section II of these Rules within the applicable Response Time, then the Commission will not require the payment of fees for any copies of records produced in response to that Request.

**V. COMMISSION OBLIGATIONS**

**A. Organizational Description**

The Freedom of Information Officer, at least once each fiscal year, will produce and make available for inspection, copying, and mailing to any person requesting it, a brief description of the Commission. The description must identify and describe the membership of the Commission's Board of Commissioners and of all of its standing and special committees and other advisory bodies and also must include:

- a short summary of the Commission's purpose,
- a block diagram of the Commission's functional subdivisions,
- the approximate number of the Commission's full and part-time employees,

- the total amount of the Commission's operating budget, and
- the number and location of each of the Commission's offices.

If the Commission maintains a website, the Freedom of Information Officer must post the description required pursuant to this Subsection V.A to the website.

**B. Index of Public Records**

The Freedom of Information Officer must create, maintain current, and make available for inspection, copying, and mailing, a current index of all types or categories of public records prepared or received, and maintained, by the Commission after July 1, 1984. The index must be reasonably detailed in order to aid persons in obtaining access to the public records of the Commission.

**C. Records Stored by Electronic Data Processing**

The Freedom of Information Officer must prepare and furnish, to any person requesting it, a description of the manner in which public records of the Commission stored by means of electronic data processing may be obtained in a form comprehensible to persons lacking knowledge of computer language or printout format.

**D. Summary of Procedures**

The Freedom of Information Officer must create, maintain current, and make available for inspection, copying, and mailing, a brief summary of the procedures established by these Rules. If the Commission maintains a website, the Freedom of Information Officer must post the summary required pursuant to this Subsection V.D to the website.

**E. Posting and Mailing of Information**

The Freedom of Information Officer must keep posted at the Commission's headquarters, and will mail to any person making a request therefor, copies of the Organizational Description prepared pursuant to Subsection V.A of these Rules, the Index of Public Records prepared pursuant to Subsection V.B of these Rules, and the Summary of Procedures prepared pursuant to Subsection V.D of these Rules.

**F. Filing of Notices of Denial**

The Freedom of Information Officer must retain copies of all Notices of Denial and copies of all Notices of Intent to Deny issued under earlier versions of these Rules in a single file at the Commission's headquarters that is open to the public and indexed according to the type of exemption asserted and, to the extent that categorization is feasible, the type of records requested.