

**SILVER LAKE WATER DISTRICT
SNOHOMISH COUNTY, WASHINGTON**

RESOLUTION NO. 541

A RESOLUTION ESTABLISHING PROCEDURES FOR
INFORMAL AND FORMAL REVIEW PROCEEDINGS
BEFORE THE COMMISSIONERS OF THE SILVER LAKE
WATER DISTRICT, SNOHOMISH COUNTY, WASHINGTON;
AND, ESTABLISHING AN ADMINISTRATIVE CODE.

WHEREAS, RCW 57.08.005 authorizes commissioners of water-sewer districts to regulate its utility systems, and RCW 57.12.010 authorizes the district commissioners to adopt rules for transaction of its business.

WHEREAS, the Commissioners of the Silver Lake Water District desire to establish procedures for review proceedings before the Board of Commissioners.

NOW THEREFORE, be it resolved by the Board of Commissioners of the Silver Lake Water District, Snohomish County, Washington, as follows:

Section 1. Title.

This resolution shall constitute and be referred to as the "Administrative Code" of the Silver Lake Water District.

Section 2. Purpose.

2.1 The purpose of this resolution is to provide an efficient and practical process for matters that the Commissioners hear and decide in a review capacity regarding actions of the District. Such matters include, but are not limited to, hearings regarding establishment of latecomer payments and review of management decisions. In the event of any conflict between the Administrative Code and state law regarding hearings, such as LIDs, state law shall control.

2.2 Except as otherwise provided in this Administrative Code or applicable law, the District shall not be constrained or limited in the manner in which it conducts District business or operations. (By Example without limitation this resolution shall not apply to disputes arising between district and contractors under district contracts; district's budget and financial management; bids, bid awards or other contract actions)

Section 3. Definitions.

3.1 **“Commission”** means the District’s Board of Commissioners or another officer, employee, or agent of the Commission to which the Commission has delegated a certain authority, power, or responsibility.

3.2 **“Commissioner”** means a current commissioner of the District as elected under Chapter 57.12 RCW.

3.3 **“District”** means the Silver Lake Water District or any of its departments.

3.4 **“Interested Person”** means a Person that is significantly affected by or interested in a proceeding or proceedings before the District or the Commission.

3.5 **“Manager”** means the chief executive officer of the District.

3.6 **“Person”** means any individual, partnership, corporation, association, or public or private organization of any character.

3.7 **“Action”** means any resolution, motion, act, directive, order, or other decision-making device of the Commission whether oral or written except decisions made after hearing in accordance with this resolution.

3.8 **“Type 1 Act”** means any Commission action that involves a decision to adopt, amend, or repeal rates or charges, a plan, rule, or regulation that applies generally.

3.9 **“Type 2 Act”** means an informal Commission action that involves a request by a Person to review a decision of the Manager.

3.10 **“Type 3 Act”** means any Commission action that involves or contains quasi-judicial decision-making:

- A. A decision to apply a rule or regulation that applies to a specific Person and that does or will subject such Person to a special assessment or, if violated, does or will subject such Person to a penalty or administrative sanction;
- B. A decision to adopt, amend, or repeal any qualification or requirement relating to the enjoyment of a benefit, privilege, or license conferred by law on a specific Person or property; and
- C. An action by the Commission that decides a dispute between two or more Persons regarding the interpretation or application of District rules or regulations, (including employee claims, grievances or disputes.)

Section 4. Type 1 Act.

The Commission must adhere to the following rules when undertaking or considering Type 1 Acts:

4.1 Except as otherwise decided by the Commission, no notice need be given and no public hearing need be held for proceedings at which Type 1 Acts will be considered or acted upon.

4.2 The President shall be the presiding officer and must give all Persons who so desire an opportunity to present data, views, or arguments in regard to the action; provided, that if the Commission finds that oral presentation is unnecessary or impracticable, it may require that presentations be made in writing.

4.3 All Commissioners, including the President, may ask questions of any Person that presents oral or written materials to the Commission.

4.4 The minutes of the meeting at which the matter is considered or acted upon and all records or materials reviewed by or made available to the Commission prior to the Commission's Action on the Type 1 Act shall constitute the record for the Type 1 Act. "All records" includes, but is not limited to, the records of the District, the District Engineer, District personnel, and other consultants pertaining to the Type 1 Act. All records and materials provided to the Commission at the proceeding, but prior to the Commission's Action, shall become part of the record of the Action.

4.5 Notwithstanding the foregoing provision, if the Commission or any Interested Party desires a verbatim record of the proceedings, the Commission may require such verbatim record to be prepared by whatever method it deems reasonable and effective. If an Interested Party desires a verbatim record of any proceeding involving a Type 1 Act, the Interested Party must notify the Commission, or such representative of the District as the Commission may deem appropriate, at least five (5) days prior to the proceeding. The Person requesting the verbatim record shall pay all costs thereof.

Section 5. Type 2 Act.

The Commission must adhere to the following informal proceedings when undertaking or considering Type 2 Acts:

5.1 Notice must be given to the Person seeking a Type 2 proceeding. Such a proceeding may be held at a regular Commissioner meeting at which the Manager and Person are available. The District shall give notice of the meeting by mailing or delivering notice to the address specified by the Person who made the request for the proceeding. Such notice shall include a statement of the time and place of the proceeding.

5.2 The President shall be the presiding officer and must give all Persons who so desire an opportunity to present data, views, or arguments in regard to the Resolution; provided, that if the Commission finds that oral presentation is unnecessary or impracticable, it may require that presentations be made in writing.

5.3 All Commissioners, including the President, may ask questions of any Person that presents oral or written materials to the Commission. The manager and/or District Personnel shall also be heard and available for Commissioner questions.

5.4 Type 2 Actions shall not constitute quasi-judicial proceedings. Testimony shall not be by oath or affirmation. Rather, Type 2 Actions are an opportunity for a Person to present an issue or question relating to a decision of the Manager to the Commission.

Section 6. Type 3 Act.

The Commission must adhere to the following rules when undertaking or considering Type 3 Acts:

6.1 Notice must be given of proceedings at which Type 3 Acts will be considered or acted upon. Notice shall be in writing and shall be at least twenty-one (21) days prior to proceedings at which a Type 3 Act may be considered the Commission. Notice of the Type 3 Act shall be by mailing or delivery to the address specified by all Persons who have made a written request for such notice and to all Interested Parties. Such notice shall include: (1) a brief description of the substance of the proposed Action or of the subjects and issues involved; (2) a statement of the time and place of the proceeding; and, (3) any instructions regarding the manner in which Interested Persons may present to the Commission data, views, or arguments related to the Action. With consent of the Commission, the parties to a Type 3 Act may agree to a different schedule or procedure.

6.2 At the beginning of the proceeding, the President must inquire as to whether any Commissioner, including the President, has a conflict of interest in, or any other disqualification (collectively, "conflict") relating to, the Action. Should the President fail to make this inquiry, any Interested Party may inquire whether any Commissioners have a conflict in the proceeding. Should the issue of conflict of interest be raised, the Commissioners without a conflict of interest shall determine how best to proceed in the interest of fairness. Should a Commissioner have a conflict, the Commissioner shall recuse himself from the proceedings and be excused from the hearing room.

6.3 The President shall be the presiding officer and must give Interested Persons an opportunity to present data, views, or arguments in regard to the Resolution.

6.4 All Commissioners, including the President, may ask questions of any party that presents oral or written materials to the Commission.

6.5 If the Commission determines that, to properly consider and act upon a Type 3 Act, it is desirable to manage the proceeding like a formal judicial proceeding, the President shall do so. The President shall conduct the proceedings and decide all issues of admissible information and testimony, shall administer oaths and affirmations, shall oversee testimony of witnesses, and shall regulate the course of the proceeding (including, for example, time allowed for receipt of evidence and argument).

6.6 A verbatim record of that portion of the proceeding at which the matter is considered must be kept. The verbatim record, the minutes of the meeting, and all records or materials reviewed by or made available to the Commission prior to the Commission's action on the Type 3 Act shall constitute the record for the Type 3 Act. "All records" includes, but is not limited to, the records of the District, the District Engineer, other District personnel, and other consultants pertaining to the Type 3 Act. All records and materials provided to the Commission at the proceeding, but prior to the Commission's formal action on the Resolution, shall become part of the record for the action.

6.7 Any Type 3 Act may be delegated by the Commission to a Hearing Examiner. The Hearing Examiner shall make a recommendation to the Commission regarding how to decide the Type 3 Act. The Commissioner shall rule on the recommendation of the Hearing Examiner, on the record before the Examiner. The commissioners may, but need not, hear argument on any Action on the recommendation of a Hearing Examiner.

Section 7. Judicial Review.

7.1 Type 1 Acts, Type 2 Acts, and Type 3 Acts are final decisions of the District. An Interested Party may request that the Commission reconsider a Type 1 or Type 2 Act; however, there is no requirement that the Commission do so.

7.2 Type 3 Acts may be appealed to Superior Court. Nothing in this resolution creates a right of judicial review with respect to an Action. But, if such review is available to any Person in relation to a Type 1, 2, or 3 Act, then such review must be commenced within twenty-one (21) days after the Commission Final Decision.

7.3 The Commission shall, at the request of any party and upon payment of the actual costs thereof, prepare and transmit to the court a certified copy of the entire record of the proceedings (including any verbatim report) or such shortened record as may be agreed to by the parties or ordered by the court.

Section 8. Actions to be Filed.

The Secretary of the Commission must keep, index, and compile certified copies of all Actions adopted by the Commission and must make such Actions available for inspection by the public during regular business hours and furnish copies thereof to any person requesting the

same and paying such fee as shall be prescribed by the Commission. Nothing in this section shall affect the confidentiality of District records as provided by law.

Section 9. Adoption.

ADOPTED by the Board of Commissioners of Silver Lake Water District, Snohomish County, Washington, at an open public meeting held on the 19th day of March, 2002.



President and Commissioner



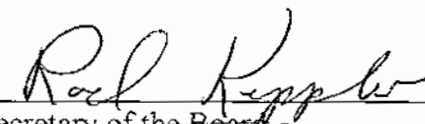
Secretary and Commissioner



Auditor and Commissioner

I, Paul Keppler
Roger Summy ^{not} Secretary of the Board of Commissioners of Silver Lake Water District, Snohomish County, Washington, certify that the attached copy of Resolution No. 541 is a true and correct copy of the original resolution adopted on the 19th day of March, 2002, as that resolution appears on the Minute Book of the District.

Dated this 19 day of March, 2002.



Secretary of the Board