

INFORMATION PERTAINING TO PUBLIC RECORDS REQUESTS

A request for public records that are in the custody of the City of Prineville ("City"). A request to inspect or obtain copies of a public record must be made in writing. Persons should use the standard Public Records form (Form A – Public Records Request) provided by the City.

Submit written request to:

City of Prineville
Attn: City Recorder
387 NW Third Street
Prineville, OR 97754
Fax: 541.447.5628
lmorgan@cityofprineville.com

The records request form may be submitted in person, by mail, by fax, or by email.

The request must:

- Include name and address of the person requesting the public record.
- Include telephone number or other contact information for the person requesting the public record.
- Include a sufficiently detailed description of the record(s) request to allow the City to search for and identify responsive records.
- Be dated.
- Be signed by the person requesting the public record.

The City calculates fees for responding to public records requests in the following manner:

- Fees are calculated by the current fee schedule as adopted by council.
- Records can be provided as hard copies, transmitted by fax, email, first class mail, compact disk (CD) or an online link.
- Labor charges can be assessed if the request involves research, locating, compiling, editing, or otherwise processing information and records. If the request is expected to take 10 minutes or less, there is no charge for labor.

Labor and charges can be determined as follows:

- Hourly rates for employee services are billed at the actual cost per hour of that employee. A prorated fee is not available for less than an hour.
- The actual cost for delivery of records such as postage and courier fees.
- True copy certification per current fee schedule.
- Actual attorney fees charged to the City for the cost of time spent by an attorney in reviewing the public records, redacting material from the public records, or segregating the public records into exempt and nonexempt records.
- The City will require pre-payment of estimated fees before taking further action on a request.
- Labor charges, copy fees or additional fees as they apply to inspection of public records may be charged.

CITY OF PRINEVILLE PUBLIC RECORDS POLICY

I. Purpose

The City of Prineville recognizes that Oregon Public Records Law (ORS 192.311-192.483) gives members of the public the right to inspect and copy certain public records maintained by the City.¹ The City also recognizes that certain records maintained by the City are exempt from public disclosure, or that disclosure may require balancing the right of the public to access the records against individual privacy rights, governmental interests, confidential issues and attorney/client privilege. Additionally, when the City receives a request to inspect or copy public records, costs are incurred by the City in responding and acknowledging the request. The purpose of this Public Records Policy is (a) to establish an orderly and consistent procedure for responding to public records requests; (b) to establish the basis for a fee schedule designed to reimburse the City for actual costs incurred in responding to public records requests; and (c) to inform citizens of the procedures and guidelines that apply to public records requests.

II. Policy

It is the policy of the City to respond in an orderly, consistent and reasonable manner in accordance with the Oregon Public Records Law to requests to inspect or receive copies of public records maintained by the City. The City must acknowledge the request within 5 business days. What is “reasonable” depends on the size and complexity of the request, available staff time and resources, and whether legal counsel needs to be consulted prior to disclosing the requested records.

III. Public Records

Oregon Public Records law defines a public record as:

“any writing containing information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.” ORS 192.311 (7) & ORS 192.324 (3).

A record may be handwritten, typed, photo copies, printed, microfilmed, and exist in an electronic form such as e-mail or a word processing document, or other types of electronic recordings.

Many public records requests are requests for information that would actually require the creation of a new public record. Public bodies are not obligated under Oregon’s Public Records Law to create new public records where none exists in order to respond to requests for information. Although a public body may, if it chooses, create a new record to provide information. The public body does not have to create a new record and only has a duty to allow the inspection and copying of an existing public record.

¹ The City is required to respond to public records requests by Oregon Public Records Law. The Federal “Freedom of Information Act” (FOIA) does not apply to request for the City’s public records. This law only applies to requests for public records maintained by the federal government.

However, a public body is required to retrieve pre-existing information, which includes electronic data stored in data bases. This obligation exists regardless of whether the public body has actually generated a report for its own use that contains the requested data. Information is not exempt from disclosure simply because it is stored electronically or because retrieving the data would require a public body to query its information systems in ways it otherwise might not.

The format the information is produced in may depend on what formats are available to the public body or software vendor through the specific information system at issue. Electronic data must be provided “in the form requested, if available”, if the requested format is not available, then the data should be provided in the form it is maintained.

The City is obligated to provide public records in the format in which they exist. If requested public records are in electronic form, the City will make arrangement to inspect the record with the appropriate device, such as a computer or tape recorder. The city is not obligated to provide a public record in another form, such as a written transcript. The City may provide the public record in an alternative format such a transcript if it wishes and the person making the request fully reimburses the City for the costs of providing the record in such alternative form. The City will provide records in alternative format at no additional cost, if necessary to provide reasonable accommodation to persons with disabilities.

IV. Public Records Exempt from Disclosure

There are numerous types of public records that are exempt from disclosure. Many of these exemptions may be found in ORS 192.345 and ORS 192.355. Others may be located in other Oregon statutes.

V. Copyrighted Material

If the City maintains public records containing copyrighted material, the City will permit the person making the request to inspect the copyrighted material and may allow limited copying of such material if allowed under Federal copyright law. The City may require the person requesting the record to provide written consent from the copyright holder or an opinion from the person’s legal counsel before allowing copying of such materials.

VI. Fees

The fee for responding to a public records request will be that established in the fee schedule adopted by the City which is in effect at the time the request is submitted. The fee will be reasonably calculated to reimburse the city for its actual costs in making the records available and may include:

- A.** Charges for the time spent by City staff or any City contractor to locate the requested public records, to review the records in order to determine whether any requested records are exempt from disclosure, to segregate exempt records, to supervise requester’s inspection of original documents, to copy records, to certify records as true copies and to send records by special or overnight methods such as express mail or overnight delivery; and

- B. A per page charge for photocopies of requested records.
- C. A per item charge for providing CD's, audiotapes, or other electronic copies of requested records. The city will prepare an estimate of the charges that will be incurred to respond to a public records request. Prepayment of the estimated charges (cost estimate) is required prior to making the records available for inspection or copying or making copies of any requested records. If the actual costs incurred by the City to respond to a records request are less than the amount of any required prepayment, the overpayment will be promptly refunded. If the actual costs incurred by the City to respond to the request are more than the amount of the cost estimate, the City will charge the requester for all such additional costs, and may require an additional amount in prepayment. Unless otherwise prohibited by law, the City may, at the City's discretion, furnish copies of requested records without charge or at a reduced fee if the City determines that the waiver or reduction of fees is in the public interest.

VII. Procedure

The following procedures must be followed in submitting and responding to requests to inspect or receive copies of public records maintained by the City:

- A. **Custodian of the Records.** The City Recorder is the designated Custodian of the Records for all public records maintained by the City, regardless of which City Department where the record is located, excluding the Police Department. In the City Recorder's absence the City Manager shall serve as the Custodian.
- B. **Request in Writing.** A request to inspect or obtain copies of a public record must be made in writing. Persons are required to use the standard Public Records Request (Form A) provided by the City.
- C. **Departmental Policies.** Subject to prior approval by the City Manager and the City Attorney, Department Heads may establish a separate Departmental policy to allow verbal or written requests to be made directly to the Department for public records maintained by the Department that are routinely requested by members of the public in connection with the Department's regular duties.
- D. **Delivery of Written Request.** The written request shall be delivered directly to the City Recorder by the person making the request. Delivery can be in person, by mail, by facsimile or via electronic mail, and shall be directed to: The City Recorder, 387 NE Third Street, Prineville, OR 97754; 541.447.5627 (phone); 541.447.5628 (fax); or lmorgan@cityofprineville.com.
- E. **Processing a Public Records Request.**
 - 1. Upon receipt, the City Recorder will date stamp the written request, and provide the requester with an acknowledgment receipt within five (50 business days).

2. The Department Head or designee shall: (a) estimate the costs necessary to provide the requested records; (b) estimate the amount of time necessary to provide the requested records; and (c) identify any records that the Designated Records Manager believes are exempt from public disclosure. The Designated Records Manager should respond to the City Recorder and the City Attorney with this information within five (5) business days of receipt of the request from the City Recorder.
3. After receipt of the response from the Department Designated Records Manager, the City Recorder will contact the person making the request within not more than three (3) business days to advise the person (a) of the estimated costs involved in fulfilling the request; (b) whether additional time is needed to locate the records and/or prepare the estimate; and (c) if the request is to inspect or copy the public records is being denied, the basis for the denial. **No further work on the request will be undertaken until the estimated costs have been received by the City Recorder. If the estimated costs have not been received within 60 days, the request will be closed.**
4. Upon receipt of the estimated costs, the City Recorder will contact the Department Head or designee and direct them to make the public records ready for inspection or to make copies of the public records. The original public records or the copies should be forwarded to the City Recorder along with a report of the final costs incurred in responding to the request. When the Final Cost Report is received, time spent by the City Recorder will be added to determine the total cost.
5. The City Recorder will contact the person making the request and arrange for inspection of the original public records, or to pick up the copies, or to confirm the copies are to be mailed, and advise of the final cost to be paid before inspection occurs or the copies are provided.
6. If an inspection of original public records is to occur, the City Recorder or designee shall be present at all times to supervise the inspection and to ensure that no documents are removed, destroyed, or otherwise tampered with.
7. If certified true copies were requested, the City Recorder will attached the Certification (Form F) to the copies before releasing or mailing them.
8. If the request is being denied, the City Recorder should prepare a written explanation of the denial based upon information provided by the Department Head and the City Attorney, and shall forward the denial to the Requestor.
9. The City Recorder shall establish a system to monitor each step of the process in responding to a request to inspect public records to insure that the person making the request has a response within a reasonable time frame, and shall maintain a copy of each request and corresponding records related to the City's response, including notes of each contact with the person making the request.

F. Department Duties

1. The Department Head or designee, shall be responsible for reviewing and responding to public records requests received from the City Recorder or made under a Department Policy for responding to routine request.
 2. The Department Designated Records Manager shall conduct a review to determine what public records, if any, exist which are responsive to the request and if any records might be exempt from disclosure. The Department should not, without prior approval of the City Manager, compile information or create documents related to a public records request.
 3. Once it is determined whether any responsive public records exist, the Department Designated Records Manager should provide an estimate of the expected time and costs in complying with the request, and forward a copy of the estimate to the City Recorder within three (3) business days, the City Recorder should be advised of the estimated time to complete the review and estimate. ***No further work on the request will be undertaken until the Department Designated Records Manager has received notice from the City Recorder that the estimated costs have been received by the City Recorder.***
 4. When the City Recorder has given notice that the estimated costs have been paid, the Department Designated Records Manager should proceed to prepare the original public records for inspection, or have photocopies made of the records if copies have been requested.
 5. The Department Designated Records Manager shall keep a record of all time spent in responding to the request and any applicable costs.
 6. The original public records, or the photocopies, if applicable, should be forwarded to the City Recorder, along with a final report of costs incurred (Form D).
- G. **Place and Time of Inspection.** The City Recorder will provide a reasonable opportunity for the inspection, examination or copying of public records. Any inspection, examination or copying of requested records shall take place in City offices during regular City business hours, at a time determined by City Recorder.
1. **Review by City Attorney.** Should the Department Designated Records Manager believe there are public records that are, or may be, exempt from public disclosure, the records shall be provided to City Attorney for review and redaction before the records are released for inspection or copying. The City Attorney shall keep a records of time spent in reviewing the request and provide that information to the Department Designated Records Manager for inclusion in the final report of costs incurred.
- H. **Denial of Public Records Requests.**
1. **Denial.** If a public records request is denied, a response will be completed and forwarded to the City Recorder providing a brief explanation of why an exemption applies to the particular records. The denial should include a citation to the specific

statute upon which the denial is based. The City Recorder shall review the denial form with the City Attorney, and prepare a denial of the request, which shall be provided to the person making the request as soon as is practicable.

2. **Appeal.** If a public records request is denied, the person making the request may appeal the denial to the Crook County District Attorney's Office (Form D). If the Crook County District Attorney determines that disclosure is appropriate, the Department can disclose the records or the City can challenge the District Attorney's decision in court.

FORM INDEX

Form A: Public Records Request

Form B: Cost Estimates

Form C: Acknowledgement of Receipt of Public Records Request

Form D: Petition to Review Denial of Request for Access to Public Records

Form E: True Copy Certification