

5. PUBLIC RECORDS

INTRODUCTION

Every person has the right to inspect non-exempt public records of a public body in the State of Oregon. The intent, identity, motivations, or need of the person requesting the records are irrelevant.

All public bodies in the state, including this Special District, must comply with Public Records Laws. This District and its Board Members may be held liable if they refuse to provide non-exempt records to any individual or organization that requests them.

RECORDS COVERED BY THE LAW

As defined by the Oregon Statutes, public records are “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.”

The District’s public records can be in the form of paper, tape, film, photographs, discs, email or any other physical medium used to record information.

Public Records Law does not require public bodies to create public records. If the District has information stored in a computer and the public requests that it be provided with a copy of the information in a different form than the District stores the information, the District is not required to manipulate the information to create the requested document.

If an outside body, such as a private contractor, prepares a document for the District that contains information that can be considered public information, the records are considered public and fall within Public Records Laws.

OBTAINING PUBLIC RECORDS

A request for public records that are in the custody of the District may be made by submitting a written request to:

RICK DURHAM
DISTRICT MANAGER
55841 SWAN RD
BEND, OR 97707

Phone: (541) 593-3124
Fax: (541) 593-1111
Email: rdurham@oww2sd.com

All written requests may be submitted in person, by mail, by fax, or email during the District’s normal working hours. The requestor of the records is obligated to come to the District Office to get the records. The District is not required to deliver any records.

The request must:

1. Include the name and address of the person requesting the public record;
2. Include a telephone number or other contact information for the person requesting the public record.
3. Include a sufficiently detailed description of the record(s) requested to allow the District to search for and identify responsive records;
4. Be dated and signed by the person requesting the public record.

When a request is submitted in writing, the District must respond within five business days acknowledging the receipt of the request. You then have an additional 10 business days to fulfill the request of issue a written response estimating how long fulfillment will take. The District is not subject to this response timeframe if it is awaiting a response from the requester seeking clarification of the inquiry or if the requester has not agreed to pay for the records, provided that the cost is \$25.00 or more. Other considerations that apply are;

- Complicated requests
- Large volume of requests
- Requests involving documents not readily available or if the necessary staff are unavailable to fulfill the request.

The District has established fees to reimburse it for costs associated with making public records available, as outlined below. You will be advised of the fee required for the request and payment of the fee must be received prior to the requested material being released. Response timelines are suspended until all fees are paid in full. If the requester fails to pay the fee within 60 days of the date the District informed the requester of the fee, the District shall close the request.

FEES

The District is allowed to charge a fee for copying or locating records. The fee will be reasonably calculated to reimburse the District for its actual costs to search for, review, release and copy of any public record, including photographs. These fees are set as follows:

- 1) Copies of public records shall be \$.25 per letter size copies and \$.50 per legal size copies.
- 2) If a request for District records requires personnel to spend 15 or more minutes researching, locating, compiling, editing, reviewing or otherwise processing information and records prior to their release or copying, the minimum fee shall be \$30.00 per hour per staff individual involved, with a minimum of one-quarter hour ($\frac{1}{4}$) charge. The total time to be spent shall be estimated by the person providing the materials, and the fee shall be paid prior to the actual search and copying. If the amount of time involved is less than estimated, the excess money shall be refunded to the individual. If the actual cost is in excess, the difference shall be paid by the individual at the time the documents are obtained.

- 3) The District may furnish copies without charge or at a substantially reduced fee if the District determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public.
- 4) The actual cost shall be charged for the use of material and equipment needed to produce copies of non-standard records.
- 5) Upon request, copies of public records may also be provided on a compact disk (CD) if the document(s) are stored in the District's computer system. Disks will be provided at a cost of \$5.00 per disk and may contain as much information as the disk will hold. Due to the threat of computer viruses, the District will not permit requestors to provide disks for electronic reproduction of computer records.
- 6) Copies shall be certified for \$.50 per copy. The following is an example of a certification that can be used for this purpose.

If available, copies of sound recordings of meetings shall be \$5.00 per copy and \$10.00 per certified copy. The following is an example of a certification that can be used for this purpose.

The District may require prepayment of estimated fees before further action on a request.

There shall be no extra fee to cover the cost of providing records in an alternate print form for individuals with disability.

If a request is of such magnitude and nature that compliance would disrupt the District's normal operation, the District may impose such additional charges as are necessary to reimburse the District for its actual costs of producing the records.

Charges for copying maps or other nonstandard size documents shall be charged in accordance with the actual costs incurred by the District.

CONSULTING LEGAL ADVICE

The actual attorney fees charged to the District 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 non-exempt records shall be charged. The costs of the attorney's time determining the application of the public records law is not included.

PUBLIC RECORDS EXEMPT FROM DISCLOSURE

If the District denies a request for a public record, it has the burden to prove that the record is exempt from disclosure. If the record is exempt from disclosure, the District is not required to provide the record. In many instances, the District has the authority to voluntarily provide records, even if they are exempt from disclosure. If the District does voluntarily provide an exempt record to an individual, it does not give up the right to deny access of the record to another individual in the future.

Documents that are exempt from disclosure unless "the public interest requires disclosure in the particular instance" as referred to in ORS 192.501.

Public records are always exempt from disclosure are referred to in ORS 192.502.

COMPLIANCE

The District shall fully comply with the Oregon Public Records Law, ORS 192.410 thru 192.505.

Specificity of Request: In order to facilitate the public's access to records in the District's possession, and to avoid unnecessary expenditure of staff time, persons requesting access to public records for inspections or copying, or who submit written requests for copies of public records, shall specify the records requested with particularity, furnishing the dates, subject matter and such other detail as may be necessary to enable District personnel to readily locate the records sought.

Access: The District shall permit inspection and examination of its non-exempt public records during regular business hours in the District's office, or such other location as the District Manager/Administrator may reasonably designate from time to time. Copies of non-exempt public records maintained in machine readable or electronic form shall be furnished, if available, in the form requested. If not available in the form requested, such records shall be made available in the form in which they are maintained per ORS 192.440 (2).

ON-SITE REVIEW OF ORIGINAL RECORDS

If a request to review original records is made, the District shall permit a review provided that search fees are paid in advance in accordance with the Fees for Public Records section, above. A representative shall be present at any time original records are reviewed, and the charges for standing by while the records are reviewed shall be the same as the charges for searching or reviewing records.

AUTHORIZATION REQUIRED FOR REMOVAL OF ORIGINAL RECORDS

At no time shall original records of the District be removed from the District's files or the place at which the record is regularly maintained, except upon authorization of the Board of Directors or Manager of the District.

UNAUTHORIZED ALTERATION, REMOVAL OR DESTRUCTION OF ORIGINALS

If any person attempts to alter, remove or destroy any District record, the District representative shall immediately terminate such person(s) review, and notify the attorney for the District.