

COLUMBIA COUNTY  
**PUBLIC RECORDS POLICY**

*[Enacted by Order No. 2-2005; Amended by Order No. 56-2005].*

I. PURPOSE:

Columbia County recognizes the right of the public to access certain public records maintained by the County in accordance with the Oregon Public Records Law. The County also recognizes that certain records maintained by the County are not public records or may be exempt from public disclosure and that a request to access public records may require a balancing of the right of the public to access the records, individual privacy rights, governmental interests, confidentiality issues and privilege issues. Additionally, when the County responds to requests to inspect or copy records, costs are incurred by the County. This policy is adopted to 1) balance these competing interests; 2) establish an orderly and consistent procedure for responding to requests to access public records; 3) protect requested records and prevent interference with the regular discharge of duties by County staff; 4) support the adoption of a fee schedule\ designed to reimburse the County for the actual costs incurred in responding to public records requests; and 5) inform the citizens of the procedures and guidelines that apply to such requests.

II. POLICY:

It is the policy of Columbia County 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 Columbia County.

III. PUBLIC RECORDS:

The County is required to respond to public records requests by Oregon statute. The Federal Freedom of Information Act (FOIA) does not apply, nor do the time frames associated with FOIA. The County must respond to the request within a reasonable time. 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 requested information.

A public record is “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 192.410(4).

Any record or information that is handwritten, typed, photographed or otherwise recorded, such as letters, words, pictures, sounds, or symbols, and all papers, maps, files, facsimiles or electronic images or recordings may be a public record. Public bodies are not obligated to create new public records where none exists, or to disclose the reasoning behind the public body’s actions. Many requests for information or knowledge are couched as public records requests. A public body does not have to provide knowledge or information, they only have to provide the opportunity to inspect and/or copy public records. If there is a physical object such as a record, letter, file, computer printout, map or

other writing, it is likely a public record which can be disclosed unless it falls into one of the exemptions (see § IV, below). If the information doesn't exist in anything that can be obtained, then it is most likely not a request for a public record.

The County is obligated to provide public records in the format that they exist in. If requested public records are readable only with specific programs or computers, the County must make the program or computer available to view the records. If information exists in one format, such as audio tape, the County is not obligated to provide it in another format, such as a written transcript. Of course, the County may provide an alternative format such as a transcript if they wish and the Requestor is willing to incur the charges. This is not applicable to alternative formats to accommodate individuals with disabilities.

Many public records are exempt from disclosure, and most of the exemptions are contained in ORS 192.501 and 192.502. [See § IV, below.]

#### IV. PUBLIC RECORDS EXEMPT FROM DISCLOSURE:

A. SPECIFIC EXEMPTIONS. There are numerous public records which are exempt from disclosure. Many of these exemptions are set forth in ORS 192.501 and ORS 192.502. A few specific exemptions worth special notice are set forth below.

1. Personal Safety Exemption – ORS 192.445(1).  
If an individual requests in writing that a public body not disclose the phone number or address of the individual, the public body is prohibited from disclosing the information if the safety of the individual or family member would be in danger.
2. Public Records Relating to Pending Litigation – ORS 192.501(1).  
If a public body is involved in litigation, or if litigation is reasonably likely in the future, the public records relating to the litigation are exempt from disclosure.
3. Archeological Sites or Objects – ORS 192.501(11).  
Information concerning the location of archeological sites or objects are exempt from disclosure, unless requested by the governing body of an affected Indian tribe.
4. Personnel Discipline Actions – ORS 192.501(12).  
Public records of a discipline action or materials or documents supporting that action are exempt from disclosure.
5. Threatened or Endangered Species – ORS 192.501(13).  
Certain information regarding the habitat, location or population of any threatened or endangered species is exempt from disclosure.
6. Personal Privacy Exemption – ORS 192.502(2).  
Information of a personal nature, such as that kept in a medical or personal file, is exempt from disclosure if disclosure would be an unreasonable invasion of privacy, unless disclosure in is the public interest by clear and convincing evidence. Personal information

includes home address, phone number, weight and age.

7. Public Employee Addresses, Dates of Birth and Telephone Numbers – ORS 192.502(3). The addresses, dates of birth and phone numbers of public employees and volunteers which are maintained by the public body in personnel files are exempt from disclosure.
8. Confidential Information Submitted by Citizens – ORS 192.502(4). Information submitted to a public body in confidence and not required to be submitted, where the information should reasonably be considered confidential, and the public body has in good faith obliged itself to keep the information confidential, is exempt from disclosure.
9. Records Deemed Confidential or Privileged under federal or state laws or regulations – ORS 192.502(8) & (9). Communications between the Office of County Counsel and a County Department or staff person are deemed to be privileged and confidential, and are exempt from disclosure.
10. Social Security Numbers. No social security number should be disclosed without prior consultation with County Counsel. If a public record contains a social security number, the number should be blacked out prior to disclosure.

B. COPYRIGHTED MATERIAL.

If the Department maintains records which contain copyrighted material, the Department should permit the Requestor to inspect the copyrighted material but should not make or allow someone else to make copies of the copyrighted material without the written consent of the copyright holder.

V. FEES:

A. GENERALLY.

The fee to be charged for providing records in response to a public records request will be in accordance with the Fee Schedule adopted by County which is in effect at the time the request is submitted to County. [See, Exhibit C to the Board of County Commissioners' Order No. 56 - 2005, and amendments or successions thereto.] Such fee shall be reasonably calculated to reimburse County for its actual costs in making the records available and may include:

1. Charges for the time spent by County staff or any County contractor to locate the requested public records, to review the records in order to determine whether any requested records are exempt from disclosure or do not constitute public records, to segregate exempt records, to supervise the requestor'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

2. A per page charge for photocopies of requested records.
3. A charge for each medium used for digital data, such as diskettes, CD's or DVD's.

B. EXEMPTIONS. [Order No. 51 - 02]

Exemptions to the attached fee schedule shall be made for:

1. County employees requesting a reasonable number of copies of documents from their personnel file, job descriptions or similar requests;
2. Job applicants when requesting reasonable information related to an official recruitment;
3. Information being exchanged in the normal course of business with other governmental agencies;
4. Reasonable requests from the news media;
5. Indigent clients under the supervision of the Juvenile Department;
6. Members of County advisory committees or other volunteers when the documents being requested are material to an issue under consideration by that committee or volunteer [note: committee members are to provide a copy of the meeting agenda or other information identifying the need for requested material];
7. Property owners needing assistance from the Assessor's or Tax Office on matters related to their own property and as approved by the Assessor;
8. Documents the County is required to distribute for Board or Planning Commission hearings; and
9. Agendas or other notifications for County meetings.

C. RETURNED CHECKS. [Order No. 51 - 02]

Department Heads are to inform any party who has previously paid for fees with a check that was returned for non-sufficient funds or for any other reason that they will be required in the future to pay all fees with cash, a cashier's check or money order.

A charge of \$35 will be assessed for each check returned for non-sufficient funds, and each Department shall post notice of this charge in a conspicuous place readily seen by the public said [see, Exhibit D to Order No. 56 - 2005 and amendments and successions thereto].

D. NOTICE TO REQUESTOR OF FEES.

Upon receipt of a public records request, staff shall immediately advise the individual making

the request of the County's fee policy, to include notice of the amount that will be charged for hourly staff research time and per-page photocopy or printing costs, or disc(s) if providing digital data.

The County will prepare an estimate of the charges that will be incurred to respond to a public records request. Prepayment of the estimated charges is required before copying any of the requested records or making the records available for inspection or copying. Staff shall advise the individual making the request that payment of the estimated amount is required before the County begins to incur the expense through staff research time, photocopying, printing, etc. If the actual costs incurred by County to respond to a records request are less than the amount of any required prepayment, the overpayment will be refunded promptly to the person or entity making the prepayment. If the actual costs incurred by County to respond to the request are more than the amount of the prepayment, County shall charge the requestor for all such additional costs.

Actual expenses incurred over the estimated amount shall be collected before the project is given to the individual making the request. Reimbursement of any overpayment to the County shall be mailed to the individual within 30 days. [Order No. 51 - 02]

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E. ELECTRONIC / DIGITAL RECORDS. [Order No. 51 - 02]

1. Generally. When the Requestor desires to have the County respond by providing digital data, it shall be provided on diskette(s), CD(s) or DVD(s) which are provided by the County – personal discs are not allowed. The County will not respond to such requests by forwarding documents or data via electronic mail.
2. Complex Matters. When a public records request is made for production of records stored electronically which will, by necessity, require the involvement of the Information Technology Department and/or an outside vendor with related computer expertise, the party making the request shall be responsible for covering all costs, including hours worked and expenses incurred. The County may choose to utilize an outside contractor to respond to such a request.
  - > Records will be produced electronically only if it is reasonable and feasible to do so. Certain applications may not easily transfer information into a readable form. In these specific cases, records will be produced by hard copy.
  - > Records that are available to be produced electronically will be produced on the available media. For instance, most employees do not have access to produce records on compact disc. In these specific cases, records will be produced electronically in the form that is readily available.
  - > Records produced on electronic media will only be produced on media supplied by the County, except for audio tape records as described in the Fee Schedule, Section II.D.

- F. WAIVER OF FEES. Unless otherwise prohibited by law, County may, at County's discretion, furnish copies of requested records without charge or at a reduced fee if County determines that the waiver or reduction of fees is in the public interest. [Order No. 51 - 02]

VI. PROCEDURE:

The following procedures shall be followed in responding to requests to inspect or receive copies of public records maintained by Columbia County:

- A. CUSTODIAN OF THE RECORDS. The Secretary to the Board of County Commissioners is designated the Custodian of the Records ("Custodian") for all public records in the custody of the County regardless of which County Department the record may be found in. In her or his absence, the Paralegal in the Office of County Counsel shall serve as alternate Custodian.
- B. REQUEST IN WRITING. A request to inspect or obtain copies of a public record in the custody of the County must be made in writing. Persons are encouraged to use the standard Public Records Request Form (see Form A attached hereto) provided by the County, although other forms of written requests will be accepted if all the information required on the standard form is provided.
- C. EXEMPTION FROM COUNTY POLICY. Subject to approval by the Board of County Commissioners, any Department Head may establish a separate Departmental policy to allow verbal or written requests to be made direct to the Department for public records maintained by the Department which are routinely requested by members of the public as part of the Department's regular work. For instance, tax statements being requested by the property owner; applications for permits.
- D. DELIVERY OF WRITTEN REQUEST. The written request shall be delivered directly to the Custodian by the Requestor. Delivery can be in person, by mail, by facsimile or via electronic mail, and shall be directed to: The Custodian of the Records, Columbia County, 230 Strand, Room 331, St. Helens, OR 97051; 503.397.4322 (office); 503.397.7243 (fax); custodian@co.columbia.or.us.
- E. CUSTODIAN DUTIES.
1. Date stamp receipt of the written Request;
  2. Attach a Staff Instruction Form, a form Denial Letter and a Final Cost Report (see, Forms B, C and D attached hereto) to the Request and immediately forward one copy to the appropriate Department and one copy to the Office of County Counsel (retain original in permanent record);
  3. Contact Requestor within five business days to 1) advise of the estimated costs involved in fulfilling the request (the Department's designated staff person should forward that information to the Custodian within that time frame); or 2) that additional time is needed to locate the records and/or prepare the estimate; or 3) that the request to inspect the public record(s) is being denied as the record(s) is/are exempt from disclosure, and that a letter explaining the basis of the denial will be sent.

***[Note: No further work should be spent on the request until these costs have been paid.]***

4. Contact the designated staff person to advise that the estimated costs have been paid and that s/he should proceed to ready the public record(s) for inspection or to make copies.
5. Once the public records are received, contact the Requestor and arrange for inspection of the original public record(s), or for Requestor to pick up the copies, or to confirm the copies are to be mailed, and advise of the final cost which must be paid before inspection proceeds or the copies are handed over.
6. With the exception of documents from the Human Resources Department, if an inspection of original public record(s) occurs, the Custodian shall be present at all times to supervise the inspection and to ensure that no documents are removed, destroyed or otherwise tampered with. With regard to documents requested from the Human Resources Department, the Human Resources Director or his/her designee shall supervise the inspection.
7. If the request is for Land Data, the Requestor shall be required to sign a Letter of Intent before receiving the data. This Letter of Intent will be forwarded by the Custodian to the Requestor by electronic mail so that the Requestor can print the Letter using appropriate letterhead. If the Requestor does not have electronic means available, the Custodian can fill in the required data before the Letter is signed. Once a Data License Agreement has been drafted and approved, the Agreement shall replace the Letter of Intent and shall be signed by the Requestor before receiving the data.
8. If request was for certified copies, attach the Certification (see, Form E, attached) to the copies before releasing or mailing them. The Certification is to be completed and signed by the person actually making copies from the original.
9. If the request is being denied, the Custodian should prepare a written explanation of the denial (see, Form C, attached) based upon information provided by the Department Head and the Office of County Counsel, and shall forward the denial to the Requestor (see, § VI. Procedure, ¶ H., Denial, below).
10. The Custodian shall establish a system to monitor each step of the process in responding to each request to inspect public records(s) to insure that the Requestor is responded to within a reasonable time frame, and shall maintain a copy of each Request and corresponding records related to the County's response, including notes of each contact with the Requestor.

F. DEPARTMENTAL DUTIES.

1. The Department Head shall review the written Request received from the Custodian and designate one staff person to respond to the Request.
2. The designated staff person shall keep a record of his/her time spent in responding to the

request and any applicable costs (see, §V., Fees, above).

3. The designated staff person shall conduct a review to determine what public records, if any, exist which are responsive to the request and to determine if any responsive records may be exempt from disclosure. The Department is not required to compile information or create documents related to the requested public record.
4. Once it is determined what responsive public records, if any, exist, the designated staff person should review the request and make an estimate of the expected costs in complying (see Staff Instructions / Estimate, Form B, attached), forwarding a copy of the estimate to the Custodian and the Office of County Counsel at the earliest opportunity. If this cannot be completed within four (4) business days, the Custodian should be advised.

[Note: No further work should be spent on the request until these costs have been paid.]

5. When the Custodian has advised that the estimated costs have been paid, the designated staff person should proceed to prepare the original public record(s) for inspection (see, ¶ 6, below), or make the photocopy of the record(s) if copies have been requested, or download digital data requested( making two duplicate copies).
6. Inspection of public records.
  - > Staff shall not, under any circumstance, hand over a file for inspection. Staff shall review the entire file and segregate any items believed to be exempt from disclosure (to include any communications to or from County Counsel's office) by placing them in a separate folder. The file and segregated documents shall be delivered to County Counsel's office.
  - > Any requests to inspect or review a file will always be handled under this Public Records Policy and the file review/inspection will be under the Custodian's supervision after approval by the Office of County Counsel.
  - > The hard copies of documents responsive to a request shall be delivered to the Custodian.
  - > Delivery of hard copies or files by the staff to the Custodian or County Counsel's office shall be accompanied by a report of the final costs incurred by staff in responding to the request. When the Final Cost Report is received, time spent by the Custodian or County Counsel's office should be added to arrive at the total cost.
  - > With the exception of Land Data [see, Order No. 56 - 2005 for description], digital data provided in response to a public records request shall be on a diskette, CD or DVD, and a second copy made on the same medium and provided to the Custodian of Records for retention for a period of two (2) years.
7. With the exception of Land Data, digital data provided in response to a public records

request shall be on a diskette, CD or DVD which is provided by the County, and a second copy made on the same medium and provided to the Custodian of Records for retention for a period of two (2) years.

8. The hard copies or digital data shall be forwarded to the Custodian and original public records maintained in a file, with materials deemed exempt from disclosure segregated in a separate file, shall be delivered to County Counsel's office. A final report of costs incurred by designated staff shall accompany the materials (see, Final Cost Report, Form D, attached).

G. PLACE AND TIME OF INSPECTION. County shall provide a reasonable opportunity for the inspection, examination or copying of requested public records which are not exempt from disclosure. Any inspection, examination or copying of requested records shall take place in County offices during regular County business hours as determined by the Custodian. *Inspection of files is only allowed under the supervision of the Custodian after approval of the Office of County Counsel or the Human Resources Director.*

H. DENIAL OF PUBLIC RECORDS REQUEST.

1. Review by Counsel. Should either the Department Head or the designated staff person suspect there to be public records involved which are, or may be, exempt from public disclosure, the Office of County Counsel should be advised and given an opportunity to review the records and make any redactions needed before the records are released for inspection or copying.
2. Denial. If the Department or Counsel denies a public record request, a written Denial of Request for Access to Public Record form (see, Form C, attached) should be completed and forwarded to the Custodian citing the statute which exempts the record(s) from disclosure and providing a brief explanation as to how the exemption applies to that particular record(s). A Petition to Review Denial of Request (see, Form F, attached) should be enclosed.
3. Appeal. If a public record request is denied, the requestor may appeal the decision to the District Attorney with a copy to the Office of County Counsel (see, Form E, attached). A copy of the decision of the District Attorney should be forwarded to the Department Head and the Office of County Counsel. If the District Attorney determines that disclosure is appropriate, the Department can disclose the records or the County can challenge the District Attorney's decision in court.

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