




Brady Fuller, Chair

Public Records Policy

Purpose:

The purpose of this policy is to define process and procedures for providing accurate records to the public in a reasonable time.

Policy:

Bend Park and Recreation District will make available any public record requested by any person pursuant to ORS 192.314, provided that the record request is not exempt from disclosure under the provisions of ORS 192 or other laws.

Exempt Public Records:

Certain records are exempt from public disclosure pursuant to ORS 192.355 and ORS 192.368.

Partial list of exemptions applicable to the District:

- A. Records of public body pertaining to litigation;
- B. Information related to appraisal of real estate prior to acquisition;
- C. Information of a personal nature of public employees, volunteers or customers such as: Social Security numbers, dates of birth and telephone numbers;
- D. Any public records or information, which is prohibited by federal law of regulations;
- E. Communications with public body or between public bodies of an advisory nature;
- F. Confidential attorney – client communications;
- G. Information submitted in confidence and not otherwise required by law to be submitted.

Access:

The District shall permit inspection and examination of its non-exempt public records during regular business hours in the District's Offices at 799 SW Columbia, or other locations as the executive director may reasonably designate. Copies of non-exempt public records maintained in machine readable, or electronic form shall be furnished, if available, in the form requested and according to the procedures described in this policy. Records not available in the form requested shall be made available in the form in which they are maintained. ORS 192.324

Reviewer: Don Horton
Last Review Date: June 2019
Next Review Date: June 2024
Review Schedule: 5 Years

Public records may exist in any format, including in paper form or electronic form, including email. Messages on voicemail or on other telephone messages storage and retrieval systems are not public records. Text messages may constitute public records; however, the District is not the custodian of these records. For that reason, employees are directed to not use text messages for official purposes other than routine communications that do not meet the definition of a public record. This policy applies to an employee's official mobile phone and personal mobile phone.

Authorization required for removal of original records:

At no time shall an original record of the District be removed from the District's files or the place at which the record is regularly maintained, except when removal of the record complies with Oregon records retention laws.

Review of Records:

The District will provide a copy of the public record or allow for reasonable opportunity to inspect the public record.

Board Meeting and Records:

Board of Directors' official minutes, written policies and financial records are matters of public information subject to such restrictions as is set by federal law or regulation, by state statute or by pertinent court rulings. The Board's records will be available for inspection at the Park and Recreation District Office, 799 SW Columbia, during business hours, or a copy of such records may be made available upon request.

Record Requests:

In order to facilitate the public's access to District records, and to avoid unnecessary expenditure of staff time, persons requesting access to public records for inspection, copying or disbursement 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 any responsive records.

No records will be released for inspection if such disclosure is exempt by state or federal law.

Levels of Requests

Level 1:

Requested documents include records that are current and readily available, require no duplication, and no additional staff time or resources to be available. These types of records are intended for public distribution, such as informational brochures, adopted District plans, agendas, permit applications, job announcements, or election-related petitions. A Level 1 request does not require a written request or payment of a fee, and can be provided by any staff member.

Level 2:

Requested documents are not immediately available, but can be made available within 15 minutes of staff time. Requested records must be located in a single department, may not contain privileged information exempt by State law, and must not require attorney review prior to release. Requests must be submitted in writing, using the District provided form and submitted to the executive director's office. There is no fee for this level of request.

Level 3:

Requested documents are complex and involve multiple staff and/or departments and/or require more than 15 minutes of staff time to compile. It may involve extensive research or compilation of records, and require legal review. Full reimbursement of labor, materials and out of pocket charges will be reimbursed to the District according to the District Fee Schedule defined in this policy. Requests must be made in writing, using the District provided form and submitted to the executive director's office.

Procedures:

Upon receipt of a request, the District will respond to the requestor within 5 working days. The response shall acknowledge receipt of the request and one of the following:

1. A statement that the District does not possess or is not the custodian of the public record.
2. Copies of all requested public records for which the District does not claim an exemption from disclosure under ORS 192.311 to 192.427 that are Level 1 or Level 2 requests within 10 business days.
3. A statement that the District is the custodian of at least some of the requested public records, an estimate of the time the District requires before the public records may be inspected and/or copies of the records will be provided, and an estimate of the fees that the requester must pay as a condition of receiving the public records, if the request is deemed to be a Level 3 request.
4. A statement that the District is the custodian of at least some of the requested public records, and that the District will provide an estimate, within a 10 business days, of the time and fees needed for disclosure of the public records.
5. A statement that the state or federal law exempts the District from disclosing a requested public record with the reason for the exemption.
6. All requests will be completed within 10 business days after issuing the acknowledgement, unless otherwise stated in the response to the record request.
7. When the District receives a request for many documents or an unclear request, the Public Records Officer will contact the requestor to clarify the request and explain the public records process. For large requests, the District may ask the requestor to prioritize the request for response.

Request Procedures:

The procedure for responding to the request will adhere to the following:

1. Upon receipt of a Level 2 or Level 3 public records request, the executive director will review the request and if appropriate, assign staff to estimate time and resources involved in generating the records.
2. Should the executive director believe that the requested information contain information that could be exempt from disclosure, the request will be forwarded to the District's legal counsel for review and recommendation.
3. The estimate to produce the requested information will be provided to the requestor in written form (mail or email) if more than 10 business days are needed to produce the records.
4. If the requestor agrees to proceed with the request, the requestor will pay the estimated fee and sign the provided form agreeing to the terms of the payment.
5. Upon receipt of the fee the District will generate the requested records. Preferred form of payment is a cashier's check. An un-guaranteed check must be cleared through the bank account before records are generated for the requestor. Should the estimated time and resources to generate the records be different than estimated, either a secondary bill or refund will be made.

Public Records Fee Schedule:

For a Level 3 request, the District will impose charges to reimburse the District for costs associated with producing the records, including, but not limited to, compiling, or producing records, costs of materials such a storage devises, hard copier or and other costs associated with reproducing the material.

1. **Paper copies**
The District will provide up to a total of 30 standard, letter size, two -sided document copies of public records for citizens at no cost. Copies beyond 30 sheets will be charged the amount that is in line with the current state printing and distribution price list.
2. **Postage**
The District will charge postage based on current postal rates.
3. **Electronic copies:**
There is no additional fee for emailed copies.
4. **Other costs:**
Copies of recordings, maps and non-standard documents will be charged actual costs.
5. **Internal Review Monitor:**
Cost of employee(s) time assigned.
6. **Legal Counsel Review:**
Regular billing rate of the legal firm will apply to records request that require legal review. Any legal costs associated with advising the District on interpretation of this policy or the state open records statutes or guidelines will not be charged to the applicant.

Reduced Fee or Waivers:

The District will accept requests for fee waivers or reductions for records requests. Requests must be in writing and addressed to the executive director. The District will consider and grant reasonable requests to waive and/or reduce fees associated with fulfilling a public records request when doing so is in the public interest because providing access primarily benefits the general public, as defined in ORS 192.324. The District will waive the first 15 minutes of staff time needed to fulfill a records request.

The District may deny eligibility for the 15 minute waiver if abuse by the requester is determined to exist either by:

1. Fragmenting a request that if taken in the aggregate would amount to significantly more than 15 minutes; or
2. Submitting multiple small requests in a short time-frame causing an undue burden on the agency.

References

ORS Chapter 192

Oregon Dept. of Justice, Oregon Attorney General's Model Contract Rules Manual

