

**Curry County
Public Records Request
Policy and Procedure**

I. Summary and Purpose

This policy establishes an orderly and consistent process for responding to public records requests. This policy applies to all County offices, departments and employees.

Oregon Public Records Law (currently: ORS 192.311-192.431) grants the public the right to inspect and copy most public records maintained by Curry County (the "County"). Therefore, except for records exempt from disclosure, and as set forth further herein, the County shall make all public records available upon request.

A public record includes any writing, recording or electronic record that is prepared, owned, used or retained by the County and contains information relating to the conduct of the County's business.

Nevertheless, certain records maintained by the County are not public records or may be exempt from public disclosure. Additionally, federal and state laws require the County to keep certain records confidential.

Lastly, Oregon Public Records Law does not impose a duty on the County to create public records in response to an information request, or to extract data in a manner requested by the public.

II. County Procedure to Process Public Record Requests

A. Public Records Custodian (PRC)

The Public Records Custodian (PRC) under this rule is a position established solely for the purpose of handling public records requests.

Until further direction from the Curry County Board of Commissioners, Curry County Legal Counsel shall be the County's Public Records Custodian. Requests can be made in person or in writing to:

Curry County Public Records Custodian
c/o Curry County Legal Counsel Office
94235 Moore Street, Suite 123
Gold Beach, OR 97444

or by email to

publicrecordsrequest@co.curry.or.us

B. All Public Records Requests Shall be Referred to the PRC

If a member of the public makes a public record request to any county department or office, all county officers, employees and departments shall forward those requests to the PRC. The County Clerk, similar to other County offices and departments, shall be a source of documents for the PRC when responding to public records requests.

1. Other County Duties Regarding Records

The PRC role under this rule in no way impacts the County Clerk's statutory role of filing and recording county documents, or other statutory duties of the County with respect to retention and destruction of County records. No County employee shall alter or destroy a record that the employee reasonably thinks is subject to a current or reasonably anticipated public records request or is relevant to current or reasonably anticipated litigation. This includes records otherwise eligible for destruction.

C. Requests to be in writing (includes email); \$25 refundable deposit.

1. Requests in Writing

All requests for County public records shall be in writing. An email including the request satisfies the writing requirement.

a. Requests shall be on County form or equivalent

A written request can either be on a form established by the County (Exhibit A) or by a writing containing the same information. The request shall specifically identify the documents or records requested as well as the name and contact information of the Requester and purpose for the request.

D. Written acknowledgement of request; fee estimate; failure to pay fee estimate allows denial.

1. PRC shall send written acknowledgement within 5 days receipt of request.

Within five (5) business days of receiving the request, the PRC shall send email or mail written acknowledgement to the requesting party. (Exhibit B: Acknowledgement Form).

NOTE: Because state law allows a five (5) business day initial response period, neither this policy, not state law requires the County to make records available immediately upon request, whether the request is made in person or otherwise.

2. Fee Estimate

The Acknowledgement Form shall include a fee estimate for providing the records; or shall seek clarification so as to enable the County to provide a fee estimate. The PRC shall estimate the cost in staff time, including County Counsel redactions and duplication fees. The fee estimate shall be based upon the applicable rates found in the current County Public Records Fee Schedule. [LINK]

a. Refundable \$25 Deposit; Employee time and cost tracking required.

In lieu of a detailed cost estimate, the County may require a \$25 deposit if it appears the request will require research and/or county counsel time to perform required redactions. Any costs incurred by the County in excess of \$25 shall be paid by the requester prior to delivery of the requested records. If the cost to provide the requested records is less than \$25, then a refund shall be made to the requester when the documents are delivered.

All county employees shall track the actual time and expenses involved in making the record or record copies available.

3. Fees Required to Process Request; Denial if Fees Not Paid Within 60 days.

a. PRC shall not perform work until fee paid. The PRC shall not perform further work until the requester responds to the Public Records Request Acknowledgment and pays the entire minimum estimated fee in excess of the initial \$25.00 deposit fee, if any.

b. PRC shall deny requests if fee not paid within 60 days. If the minimum estimated fee is not paid within 60 days of the written acknowledgement to the requester, then the Public Records Request shall be considered void and the PRC shall take no further action. In such an event any \$25 initial deposit shall not be refunded.

c. Waiver or Reduction of Fees

While the PRC may waive some or the entire fee if making the record available primarily benefits the general public as a whole as contrasted to a single individual or organization, the County will not waive fees without a showing of inability to pay. The County requires requests for fee waivers or reductions to be made in writing along with a description of the specific public benefit gained by providing the documents, as well as a statement of assets and liabilities with income and expenses.

F. Delivery of Requested Documents within 10 days of Fee Payment.

1. Documents Delivered or Made Available within 10 days of Fee Payment.

The PRC shall make available for pick-up the requested records not more than 10 business days after payment of the minimum fee indicated on the Public Records Request Acknowledgement Form.

After receipt of the appropriate fee, the PRC shall perform a final records process including any necessary redactions. Any claim of exemption from production for the requested records shall be explained in writing and include reference to the applicable law that support the claimed exemption.

In the alternative to receiving copies, the requester may decide to inspect original files or records by appointment during usual business hours rather than obtain copies. In all cases, the PRC must take reasonable steps to ensure that the records are protected from being altered, taken or destroyed.

2. Explanation if Delivery within 10 days of Fee Payment Impracticable.

When compliance with the ten-day time limitation is impracticable because of:

- (a) The staff or volunteers necessary to complete a response to the public records request are unavailable, on leave or not scheduled to work;
- (b) Compliance would demonstrably impede the public body's ability to perform other necessary services; or
- (c) Of the volume of public records requests being simultaneously processed by the public body,

then the PRC shall provide a written statement that it is still processing the request and a reasonable estimated date by which the public body expects to complete its response based on the information currently available.

In any event, the PRC shall as soon as practicable and without unreasonable delay, acknowledge a public records request and complete the response to the request.

G. Appeals

1. To the District Attorney

Denial of access to public records, or a denial of a request to totally or partially waive a records request fees may be appealed directly to the Curry County District Attorney in accordance with ORS 192.324(6), ORS 192.415, or ORS 192.418. (Exhibit C)

2. to the Circuit Court

Denial of a public record of an elected official may be appealed to Circuit Court in accordance with ORS 192.422, ORS 192.427 and ORS 192.431.

H. PRC shall keep a log of all public records requests.

The PRC shall keep a log of all requests documenting the date, documents requested and delivery of all document requests.

I. Forms

PRC may develop additional forms and modify existing forms to further carry out this policy or comply with state law.

Exhibit A
CURRY COUNTY PUBLIC RECORDS REQUEST FORM

Date: _____ / _____ / _____

TO: Curry County Public Records Custodian
94235 Moore St., Suite 123
Gold Beach, Oregon 97444

Please make available for inspection or provide a copy or copies of the following records:
(Please provide a sufficiently detailed description of the record(s) requested to allow the County to search for and identify responsive record)

Requests will NOT be processed unless accompanied by the necessary information and deposit.

I wish to arrange an opportunity to personally inspect the requested records.

NOTE: Because state law allows a five (5) business day initial response period, neither this policy, nor state law requires the County to make records available immediately upon request, whether the request is made in person or otherwise.

I wish to receive copies of the requested records.

Signature _____

Print Name _____

Organization _____

Address: _____

Phone / Email () - / _____

**** Curry County will not process records requests without requester's name, mailing address, signature, date of request and a sufficiently detailed description of the requested records and if applicable, a pre-paid cost estimate.***

Exhibit B
RECORDS REQUEST ACKNOWLEDGMENT FORM
COUNTY LETTERHEAD

_____ (Date of Acknowledgment) _____ Date of Initial Request

To: [Requester]

In accordance with ORS 192.324(2), this acknowledges receipt on [date] of your request for the following record[s]:

[Describe records requested.]

Having reviewed your request, we are able to inform you that:

A. ___ Copies of all requested public records for which the County does not claim an exemption from disclosure under ORS 192.345 to 192.355 are enclosed.

___ B. The County [does not possess/is not the custodian of] the requested record[s].

___ C. The County is uncertain whether we possess the requested record[s]. We will search for the record and make an appropriate response as soon as practicable.

___ D. [State/federal] law prohibits the County from acknowledging whether the requested record[s] exist[s]. [Cite to relevant state/federal law.]

___ E. The County is unable to acknowledge whether the requested record[s] exist[s] because that acknowledgement would result in [the loss of federal benefits/other sanction]. [Cite to relevant state/federal law.]

___ F. The records requested are confidential or exempt from disclosure under [cite to relevant state/federal law].

___ G. The County is the custodian of at least some of the requested public records. We estimate that it will require [estimated time] before the public records may be inspected or copies of the records will be provided. We estimate that the fee for making the records available is between \$_____ and \$_____. You must pay the minimum fee as a condition of the county proceeding further with your request. Please be advised that final production of the documents you are requesting may exceed even the maximum estimated amount, above. In either case, the total fee to obtain and produce the required records must be paid prior to delivery to the Requestor. If the final fee to deliver the documents is less than the fee you paid, a refund will be provided upon delivery of the requested documents.

a. When the required fee is paid to the county, the documents will normally be provided in 10 business days or less; or written explanation of impracticability will be given.

b. If we do not receive at least the minimum fee as described above, within 60 calendar days from the date of this acknowledgement, then this request will be considered void, no further action taken and no refund granted to the requestor.

_____ H. The county needs clarification of your request. We will be unable to process your request until you provide explanation of the following:

_____ I. Please contact my office to make an appointment to inspect the records.

Respectfully

Public Records Custodian Signature

**EXHIBIT C
PETITION TO CURRY COUNTY DISTRICT ATTORNEY
REGARDING PUBLIC RECORD REQUEST**

DATE: ____ / ____ / ____

Petitioner's Name: _____

Pursuant to ORS 192.442, the undersigned petitions to the Curry County District Attorney for an Order directing the Curry County Public Records Custodian that a public record be made available for inspection or produced.

(Describe Records to be Produced or Made Available for Inspection)

1. _____
2. _____
3. _____

On ____ / ____ / ____ (date) the undersigned requested to inspect and/or copy these records. (Attach copy of public record request).

On ____ / ____ / ____ (date) The request was denied by the County Public Record Custodian, County Counsel John Huttli.

Signature _____

Print Name _____

Organization _____

Address: _____

Phone / Email () - / _____