

Public Records

Duties of Public Officials



Purpose of the Public Records Law

- **Informed citizenry** – What is the government up to?
 - *“Democracy requires accountability, and accountability requires transparency.”*
- **Knowing our history here?** – How did our government get us here?



Retention



What is a Public Record?

- A public record is any information that:
 - Is prepared, owned, used or retained by the city;
 - Relates to any activity, transaction or function of the city; and
 - Is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the city.

What is Not a Public Record?

- Examples include:
 - Extra copies of a document, preserved only for convenience of reference;
 - A stack of publications;
 - Messages on voice mail or on other telephone message storage and retrieval systems*;
 - Spoken communication that is not recorded.

What is the City's Obligation to Retain Its Records?

Each city is required to maintain all of its public records, or accurate copies thereof, in accordance with the retention schedule established by the State Archivist.

[OAR 166-200-0200 through 166 -200-0405](#)

Tampering With or Destroying Public Records

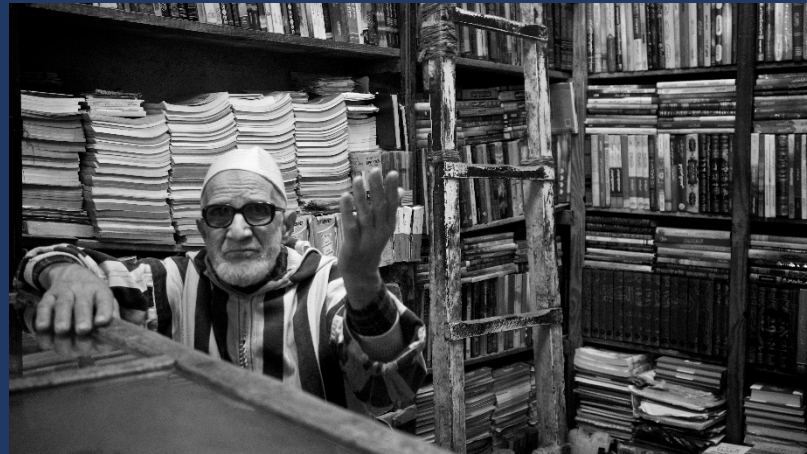
It is a crime to destroy, mutilate, conceal, remove, make a false entry in, or falsely alter any public record.



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Records Custodian

Each city is required to designate a records officer to coordinate its records management program and to serve as a liaison with the State Archivist.



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State Archivist – There to Help

Oregon Secretary of State - Archives Division

800 Summer St. NE

Salem OR 97310

503-373-0701

Fax 503-378-4118

sos.oregon.gov

Disclosure



What is a Public Record?

A public record is any writing that:

- Contains information relating to the conduct of the city's business;
- Which is prepared, owned, used or retained by the city;
- Regardless of the writing's physical form or characteristics.

What is Not a Public Record?

- A public record does not include any writing that:
 - Does not relate to the conduct of the city's business; and
 - That is contained on a privately owned computer.

Right to Inspect

Every person has a RIGHT to inspect any public record of the city, except as expressed provided by 192.338, 192.345 and 192.355.



Certain Records Exempt

ORS 192.345 – Conditionally Exempt

- Records are conditionally exempt – exempt unless the public interest requires disclosure in a particular incident.
- 40 Potential Exemptions – Not all are applicable to cities.
- “The policy underlying the conditional exemption statutes is that disclosure decisions should be based on balancing those public interests that favor disclosure of governmental records against those public interests that favor governmental confidentiality, with the presumption always being in favor of disclosure. ”

ORS 192.355 – Particularized finding

- Does not contain the condition that records be withheld “unless the public interest requires ” like ORS 192.345 does.
- 42 Potential Exemptions – Not all are applicable to cities.
- Each exemption expressly requires a particularized weighing of the public interest in disclosure.

Voluntary Disclosure by the City

- Cities can generally choose to disclose records that are considered conditionally exempt.
- The Attorney General has determined that under certain circumstances, a city is allowed to release a record to one person, and not the rest of the public.
 - “[W]here limited disclosure of a public record does not thwart the policy supporting the exemption, the public body does not thereby waive its prerogative not to disclose the record to others. ”

Deadlines for Responding to Public Records Requests

- Cities have 5 business days to acknowledge receipt of a public records request.
- Cities have 10 business days from the date required to acknowledge receipt to fulfill the request or provide a written estimation of how long it will take to fulfill the request.



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Challenges to Denied Requests for Public Records

- If the city or an **appointed** city official denies a request for public records, an appeal may be filed with the county's district attorney.
- If an **elected** official for the city denies a request for public records, an appeal may be filed with:
 - Marion County Circuit Court; or
 - The Circuit Court wherein the elected official is located.

Resources

- [The Oregon Attorney General's Public Records Manual](#) ;
- [The Oregon Secretary of State's Retention Schedule for Cities](#) ;
- The League of Oregon Cities' Policy Manual on the Use, Retention, Ownership, Disclosure of Public Records; and
- [The League of Oregon Cities' FAQ on Assessing Fees for the Production of Public Records](#) ;

Questions?



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League of Oregon Cities

Call: 503-588-6550

Email loc@orcities.org

