



Oregon Department of Land Conservation and Development Policy

Title: **Public Access to DLCD Records**

Number: **DO 110.02**

Supersedes: **04-3 08/19/04**

Applicability: **All DLCD Staff, Public**

Reference: **ORS 192.410-192.505**

Approved:

Effective Date: **11/15/10**

I. Purpose

To encourage government transparency and provide records to the public upon request. Records that are not exempt from disclosure under the Oregon Public Records Law (ORS 192.410-192.505) will be provided upon request for inspection at a fee set by the department.

II. Definitions

Custodian	Public body mandated to create, maintain, care for or control the records. ORS 192.410(1)(b).
Department	Department of Land Conservation and Development
Oregon Public Records Law	http://www.doj.state.or.us/public_records/manual/index.shtml
Public Body	Including every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state. ORS 192.410(3).
Public Interest in Disclosure	The Oregon Court of Appeals construed the public interest requirement for granting a fee waiver or reduction in a 2005 decision. It concluded that “[a] matter or action is commonly understood to be ‘in the public interest’ when it affects the community or society as a whole, in contrast to a concern or interest of a private individual or entity.” In addition, it stated that “a matter or action ‘primarily benefits the public,’ *** when its most important or significant utility or advantage accrues to the public.”
Public Record	Is defined in ORS 192.410(4)(a) as “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.”

State Agency	Any state officer, department, board, commission or court created by the Constitution or statutes of this state but does not include the Legislative Assembly or its members, committees, officers or employees insofar as they are exempt under section 9, Article IV of the Oregon Constitution. ORS 192.410(5).
Writing	Handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, files facsimiles or electronic recordings.” It also includes all email correspondence. ORS 192.410(6).
Person	Includes any natural person, corporation, partnership, firm, association or member or committee of the Legislative Assembly. Does not include “public body”, and DOJ has concluded that a public body may not use the Public Records Law to obtain public records from another public body.

III. Policy

“Every Person” has the right to inspect any non-exempt public record of a public body in accordance with the Oregon Public Records Law.

Fees:

OAR 660-040-0005 provides that the department may charge the following fees for certification of copying of any public records in the department’s custody and not otherwise exempt from disclosure:

\$5.00	For each certification containing five pages or less
\$0.25/page	For each page of a certified document in excess of five pages.
\$0.25/page	For each page of an uncertified copy.
\$15.00/hr	For each hour of staff time, assessed in 15-minute increments after the first 30-minutes.
\$5.00	Audio CD

OAR 660-040-0005(2) allows the director to charge an amount determined to be reasonable for the actual cost of making records available. A schedule of fees to be charged by the department is attached.

IV. Procedures

A request for public records that are in the custody of the Oregon Department of Land Conservation and Development may be made by submitting a written request to:

Records Coordinator
635 Capitol St., Ste. 150
Salem, OR 97301
503-373-0050; Fax: 503-378-5518

Department staff will execute this policy in accordance with the following:

1. The initial point of contact for information requests shall be the department's records coordinator. The department's receptionist shall serve as back-up to the records coordinator.
2. Explain the process for information requests to the person.
3. Explain the fee schedule for the record and access to the person requesting information.
4. Request that the person fill out an information request. The request should include the types of records (e.g., records relating to decisions made by the Land Conservation and Development Commission, acknowledged plans and proposed plan amendments, grant files, etc...). Information should be specific enough to allow staff to accurately select and locate documents and to allow staff to provide a reasonable estimate of the time it will take to retrieve materials. The request should also include the name and address of the person requesting the public record. The person should also include a telephone number or other contact information in case there are questions about the request.
5. Provide written acknowledgement of receipt of the request "as soon as practicable and without unreasonable delay."
6. Confer with other staff, as necessary, and provide the requestor with an estimate of when the records will be available.
7. The department will provide an invoice for costs. The requestor will pay by cash or by check payable to the department in advance of the request being complete.
8. Pull files. Staff will check with a member of the management team to get an initial assessment of whether or not any materials may be confidential and possibly exempt from public records laws.
9. Notify the person when files are available. Arrange a time that is convenient for them to review files. Provide an estimate of costs incurred to date to the person.
10. The department will make a space available for the person to review files. Staff will locate and reserve a space for review of files.
11. The department will make copies of materials upon request. If the copying job is large, staff will notify the person of the date the copies will be available.

Limitation on Access to Department Records and Equipment

A person requesting to inspect public records shall not be authorized to conduct his or her own search of department records except as provided in this policy, or to remove any original records from the place designated for review of the records. A person requesting to inspect public records shall not be authorized to use or operate any department office equipment, including photocopying, scanners, fax machines or computers.

Waiver or Reduction of Fees

The department may furnish copies of any public records without charge or at a substantially reduced fee if the department determines the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public, per ORS 192.440(4). The agency will also consider financial hardship to the requestor and the agency, the extent of time and interference with the agency's duties, the volume of records requested and the need to segregate exempt and nonexempt materials. All waivers must be approved in advance by the director or his designee. No exceptions to the fee structure will be made for personnel-related information.

Attachment:

- [Fee Schedule](#)
- [Request Form](#)
- [Attorney General's Public Records and Meetings Manual 2010 – Records Law App. A “Frequently Asked Questions”](#)