



CITY OF MILWAUKIE
Office of the City Recorder

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How to Make a Public Records Request

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Who has the Right to Inspect Public Records?

Oregon Revised Statute (ORS) 192.314 states that every person in Oregon has the right to inspect any **nonexempt** public record. The Attorney General's 2019 *Public Records and Meetings Manual*, page 1, explains:

Generally, the identity, motive, and need of the person requesting access to public records are irrelevant... However, the identity and motive of the person seeking disclosure may be relevant in determining the weight of the public interest in disclosure, a factor that is relevant to some exemptions. In addition, the identity and motive of the requestor may be relevant to determining whether the public body should waive or reduce its fee in fulfilling the request.

Who is Subject to the Public Records Law?

Any public body in the State of Oregon is subject to the public records law. In the City of Milwaukie (the city) this includes the City Council, boards and commissions, officers or agents, and departments. This also applies to "records, created by and in the possession of a private contractor... if the public body owns the records by contract." (2019 *Public Records and Meeting Manual*, page 8).

What Records are covered by the Law?

ORS 192.311(5)(a) defines a public record to include "**any writing that contains 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." This would include a record prepared outside the city that contained information being used to conduct the public's business with records "owned, used or retained" by the public body. Not included would be a record prepared by a private entity, which is simply reviewed, but not retained, by the city.

ORS 192.311(7) further defines writing as "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." "Writing" also includes information stored on a computer, microfiche, photographs, films, tape or videotape, and virtually any other method of recording information.

ORS 192.324(3) recognizes that public records may be in machine readable or electronic form, including e-mail. Although individual e-mails may be deleted, the e-mail may continue to exist on a back-up server or in another user's inbox and remains a public record. A public body must make all nonexempt e-mail available for inspection and copying regardless of its storage location.

The Attorney General's 2019 manual, pages 7-8 states:

The Public Records Law does not require public bodies to create new public records.... However, a public body is required to retrieve pre-existing information, which includes electronic data stored in databases. This obligation exists regardless of whether the public body has actually generated a report for its own use that contains the requested data. Information is not exempt from disclosure simply because it is stored electronically or because retrieving the data would require a public body to query its information systems in ways it otherwise might not. The format the information is produced in may depend on what formats are available to the public body or software vendor through the specific information system at issue. Electronic data must be provided "in the form requested, if available"; if the requested format is not available, then the data should be provided in the form it is maintained.

What to Expect when a Request is made:

The city recognizes the public's right to public records. The city will provide reasonable opportunities to review public records during usual business hours if the requests do not interfere with the regular city duties.

All requests need to be in writing with the date, name, address, e-mail address, and signature of the person making the request. The request must contain a statement of sufficient specificity to determine the nature, content, and department in which the record is located.

A person making a public record request may inspect requested records during usual business hours in the presence of city staff. The city must always retain custody of original public records. The city will not create any new records or customize existing records in response to a records request.

If the public record is maintained in a machine readable or electronic form, the city may provide a copy of the public record in the form requested, if available. The city will provide an opportunity for individuals with disabilities to request an alternative form.

Timelines: ORS 192.324 requires the city to respond to all public record requests. Under the Oregon Public Records Law, public bodies are not bound by the timeframes of the Federal Freedom of Information Act (FOIA). In accordance with records management best practices and the requirements of ORS 192.324, the city will acknowledge all records requests within five business days and will complete the request or provide a written statement noting the status of the request within 10 business days.

Fees: The city will establish a fee that is reasonably calculated to reimburse the city for the actual cost of making public records available, including hourly rates for employee services. A listing of fees is available on the city website under Finance [Fees and Charges](#).

If a record contains exempt information, the city will provide a copy with the exempt portion redacted. The city may include the cost of having legal assistance to redact material in the fee charged.

A request that disrupts regular city duties will be charged whether copies are provided or not. The city may not establish a fee greater than \$25 unless the requestor is provided with written notification of the estimated amount and the requestor confirms they want the city to proceed. Prepayment of at least half of the identified fee is required if the amount of the request is greater than \$25.

Fee Waiver Request. The city may provide copies of public records without cost or at a substantial reduction if the city records officer determines the waiver is in the public interest. A requestor must submit a request in writing for a fee reduction or waiver. The waiver or reduction request review will weigh the requestor's ability to pay and the possible financial hardship on the city that might arise from granting the waiver. A denied fee waiver or reduction requestor may appeal the decision to the district attorney.

The city will provide copies of routine materials personal to a requestor without charge except for police reports.

The city will provide copies of routine materials requested by any Milwaukie elected official, appointed advisory board or representative of a recognized neighborhood association without charge if the request relates to information needed to act in one's official capacity.

To request public records, visit the Office of the City Recorder's online [Records Request](#) form (link below) or call 503-786-7502 or e-mail ocr@milwaukieoregon.gov.

To submit a records request, visit: www.milwaukieoregon.gov/cityrecorder/public-records-request-form