

*Silverton Fire District*  
*Board Manual*

**POLICY 104: PUBLIC RECORDS**

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**PURPOSE**

The purpose of this Public Records Policy is to establish an orderly and consistent procedure for responding to public records requests; to establish the basis for a fee schedule designed to reimburse the District for the actual costs incurred in responding to public records requests; and to inform citizens of the procedures and guidelines that apply to public records requests.

**COMPLIANCE WITH OREGON LAW**

The Silverton Fire District recognizes that Oregon Public Records Law (ORS 192.410-192.505) gives members of the public the right to inspect and copy certain public records maintained by the District. The District also recognizes that certain records maintained by the District are exempt from public disclosure, or that disclosure may require balancing the right of the public to access the records against individual privacy rights, governmental interests, confidentially issues and attorney/client privilege. Additionally, when the District receives a request to inspect or copy public records, costs are incurred by the District in responding to the request. The purpose of this Public Records Policy is **(a)** to establish an orderly and consistent procedure for responding to public records requests; **(b)** to establish the basis for a fee schedule designed to reimburse the District for the actual costs incurred in responding to public records requests; and **(c)** to inform citizens of the procedures and guidelines that apply to public records requests.

**POLICY**

It is the policy of the District to respond in an orderly, consistent and reasonable manner in accordance with the Oregon Public Records Law to requests to inspect or receive copies of public records maintained by the District. When a request is submitted in writing, the District will respond within five business days acknowledging the receipt of the request. The District will have an additional ten business days to fulfill the request or issue a written response estimating how long fulfillment will take. The District is not subject to the response timeframe if the District is awaiting a response from the requester seeking clarification of the inquiry or if the requester has not agreed to pay in advance for requested record(s). Additional time may be needed and will vary based on the size and complexity of the request, availability of staff time and resources, and whether legal counsel needs to be consulted prior to disclosing the requested record(s).

**PUBLIC RECORDS DEFINED**

Oregon Public Records law defines a public record 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.”* ORS 192.410(4).

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### **TYPES OF PUBLIC RECORDS**

A record may be handwritten, typed, photocopied, printed, microfilmed, and exist in an electronic form such as e-mail or a word processing document, or other types of electronic recordings.

Many public records requests are requests for information that would actually require the creation of a new public record. Public bodies are not obligated under Oregon's Public Records Law to create new public records where none exists in order to respond to requests for information. Although a public body may, if it chooses, create a new record to provide information, the public body does not have to create a new record and only has a duty to allow the inspection and copying of an existing public record.

The District is obligated to provide public records in the format in which they exist. If requested public records are in electronic form, the District will make arrangements to inspect the record with the appropriate device, such as a computer or tape recorder. The District is not obligated to provide a public record in another form, such as a written transcript. The District may provide the public record in an alternative format such as a transcript if it wishes and the person making the request fully reimburses the District for the costs of providing the record in such alternative form. This District will provide records in alternative format at no cost, if necessary to provide reasonable accommodation to persons with disabilities.

The minutes of the meetings of the Fire Board will be maintained by the fire district staff designee and shall provide for information as required by law (ORS 192.650 (1)) and board policies.

The Board secretary or designee will record all proceedings of the Fire Board meetings and file these in chronological order in books provided for that purpose. The official minutes of board meetings, including supporting documents, will be open for inspection by the public at the office of the Fire Chief during regular business hours. Minutes of executive meetings are not subject to this provision in accordance with ORS 192.660.

The Fire District budget, statistical compilations, reports, notices, bulletins, memoranda, minutes of meetings and official communications between governmental branches in whatever form are public records and access to them during normal business hours shall be granted to any citizen upon request.

In accordance with the public records law, certain records, such as executive meeting minutes and personnel records, are not included in the category of records to which the right of access is to be granted by the fire district.

Original minutes and records in any form of executive sessions will not be viewed, reviewed, or released without a written request and subsequent written authorization from the Board of Directors and Fire Chief upon advice from the district's attorney. Any and all cost incurred by the district to produce the requested documentation will be paid by the requesting party for actual costs of producing the records.

### **PUBLIC RECORDS EXEMPT FROM DISCLOSURE**

There are numerous types of public records that are exempt from disclosure. Many of these exemptions may be found in ORS 192.501 and ORS 192.502. Others may be located in other Oregon statutes. A few specific exemptions worth special notice are as follows:

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Personal Safety Exemption - ORS 192.445(1): If an individual requests in writing that a public body not disclose the phone number or address of the individual, the public body is prohibited from disclosing the information if the safety of the individual or family member would be in danger.

Public Records Relating to Pending Litigation - ORS 192.501(1): If a public body is involved in litigation, or if litigation is reasonably likely in the future, the public records relating to the litigation are exempt from disclosure.

Archeological Sites or Objects - ORS 192.501(11): Information concerning the location of archeological sites or objects are exempt from disclosure, unless requested by the governing body of an affected Indian tribe.

Personal Discipline Actions - ORS 192.501(12): Public records of a discipline action or materials or documents supporting that action are exempt from disclosure.

Threatened or Endangered Species - ORS 192.501(13): Certain information regarding the habitat, location or population of any threatened or endangered species is exempt from disclosure.

Personal Privacy Exemption - ORS 192.502(2): Information of a personal nature, such as that kept in a medical or personal file, is exempt from disclosure if disclosure would be an unreasonable invasion of privacy, unless disclosure is in the public interest by clear and convincing evidence. Personal information includes home address, phone number, weight and age.

Public Employees Addresses, Dates of Birth and Telephone Numbers - ORS 192.502(3): The addresses, dates of birth and phone numbers of public employees and volunteers which are maintained by the public body in personnel files are exempt from disclosure.

Confidential Information Submitted by Citizens - ORS 192.502(4): Information submitted to a public body in confidence and not required to be submitted, where the information should reasonably be considered confidential, and the public body has in good faith obliged itself to keep the information confidential, is exempt from disclosure.

Records Deemed Confidential or Privileged under federal and state laws or regulations - ORS 192.502(8) & (9): Communications that are subject to attorney/client privilege, such as communications between District legal counsel and a District staff member are exempt from disclosure.

Social Security Numbers: No social security numbers will be disclosed without prior consultation with District legal counsel.

## COMPLIANCE

The District shall fully comply with the Oregon Public Records Law, ORS 192.410-192.505.

Specificity of Request: A request for public records that are in the custody of the Silverton Fire District may be made by submitting a written request to the Fire Chief or his/her designee. The request may be submitted in person, by mail, by fax or by email to the Office Administrator who will coordinate requests received by the public. The request must:

- Include name and address of the person requesting the public record;
- Include telephone number or other contact information for the person requesting the public record; and

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- Include a detailed description of the record(s) requested to allow Silverton Fire District to search for and identify responsive records.
- Be dated and signed by the person requesting the public record.

Access: The District shall permit inspection and examination of its non-exempt public records during regular business hours in the District's offices, or such other locations as the Fire Chief may reasonably designate from time to time. Copies of non-exempt public records maintained in machine readable or electronic form shall be furnished, if available, in the form requested. If not available in the form requested, such records shall be made available in the form in which they are maintained.

Certified Copies: Certified copies of non-exempt public records shall be furnished upon request and receipt of payment therefore.

### **FEES FOR PUBLIC RECORDS**

In order to recover its costs for responding to public records requests, the following fee schedule from *Ordinance Number 07-01, adopted on March 13, 2007* by the District:

Copies of Public Records: Copies of public records shall be a minimum \$15.00 per copy page with each additional page to be .15 cents per copy for standard, letter size copies. Copies shall be certified for an additional charge of \$5.00 per copy (Certification document attached).

Copies of Sound Recordings: Copies of sound recordings of meetings shall be imposed such as are necessary to reimburse the District for its actual costs of producing the records per copy.

Copies of Maps and Other Nonstandard Documents: Charges for copying maps or other nonstandard size documents shall be charged in accordance with the actual costs incurred by the District.

Research Fees: If a request for records requires district personnel to spend more than 15 minutes searching or reviewing records prior to their review or release for copying, the minimum fee shall be \$20.00 per hour and additional charges shall be in ¼ hour increments. The district shall estimate the total amount of time required to respond to the records request, and the person making the request shall make payment for the estimated cost of the search and copying of the records in advance. If the actual time and costs are less than estimated, the excess money shall be refunded to the person requesting the records. If the actual costs and time are in excess of the estimated time, the difference shall be paid by the person requesting the records at the time the records are produced.

Additional Charges: If a request is of such magnitude and nature that compliance would disrupt the District's normal operation, the District may impose such additional charges as are necessary to reimburse the District for its actual costs of producing the records.

Reduced Fee or Free Copies: Whenever the Fire Chief determines that furnishing copies of public records in the District's possession at a reduced fee or without costs would be in the public interest, the Fire Chief may so authorize ORS 192.440(4).

### **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 upon authorization of the Board of Directors or Fire Chief.

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### **ON-SITE REVIEW OF ORIGINAL RECORDS**

If a request to review original records is made, the District shall permit such a review provided that research fees are paid in advance in accordance with paragraph F.4 above. A representative shall be present at any time original records are reviewed, and the charges for standing by while the records are reviewed shall be the same as the charges for searching or reviewing records.

### **UNAUTHORIZED ALTERATION, REMOVAL OR DESTRUCTION OF ORIGINALS**

If any person attempts to alter, remove or destroy any District record, the District representative shall immediately terminate such person's review, and notify the attorney for the District and law enforcement.

### **PATIENT CONFIDENTIALITY**

It is the responsibility of the District not to breach the confidentiality of a patient's medical records at any time. This applies to gaining medical information from the patient at the scene, written information on Patient Care Report Forms (PCRF), storing patient records and appropriate release of patient information and other applicable laws.

### **RELEASE OF PATIENT INFORMATION**

The pre-hospital care report is considered privileged information and shall be treated as such. Access to same, upon completion, will be restricted to authorized staff only (treating medic personnel, EMS Officer, Training Officer, billing staff, supervising physician).

PHCR or detailed information concerning patient medical history shall not be copied except as required for CONFIDENTIAL quality improvement review EXCEPT that:

Copies may be provided to: upon receipt of a release form (see attached Patient Release of Information) to;

- *The patient (with identification)*
- *The patient's legal representative, upon written request/release signed by the patient*
- *The patient's legal guardian (with proof of guardianship and identification) or a written request from the legal guardian, along with proof of legal guardianship*
- *Person providing a subpoena for the record*

The District will cooperate within the above limits as much as possible to assist law enforcement investigative efforts; however, law enforcement agencies shall not be exempt from obtaining a subpoena for copies of the records. Law enforcement personnel may be given patient name, age, DOB, address, and relevant information verbally from the PHCR.