



## **Public Records Policy**

### **Purpose**

The City of Montgomery maintains many records that are used in the administration and operation of the City. In accordance with State law, the City of Montgomery Records Commission has adopted a schedule of records retention and disposition that identify these records and this schedule is available through the office of the City Manager. The records maintained by the City and the ability to access them are means to provide trust between the public and the City. The purpose of this policy is to facilitate the public in exercising their rights to access and review City records.

### **Procedure**

#### **I. Custodian of Public Records; When available**

The City Manager is the official Public Records Custodian of all records which are centrally maintained by the City. Public records requests shall be made directly to the office of the City Manager. The City Manager may assign the responsibility to follow up or satisfy a request to another City employee. The requester should then follow up with that employee. Requests for traffic accident or incident report records from the Police Department may be made directly to the police records clerk at the Safety Center.

Public records requests will be accommodated during regular business hours. Public records requests will not be accepted on weekends or holidays.

#### **II. General Provisions**

##### **Section 1. Public records**

Public records include the following: Any document – paper, electronic, or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the City of Montgomery are public unless they are specifically exempt from disclosure under the Ohio state or federal law.

##### **Section 1.1**

It is the policy of the City of Montgomery that current records will be organized and maintained so that they are readily available for inspection and copying.

##### **Section 2. Record requests**

Each request for public records should be evaluated for a response using the following guidelines:

## **Section 2.1**

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should inform the requestor of the manner in which the office keeps its records.

## **Section 2.2**

A requester is not required to put a records request in writing and does not have to provide his or her identity or the intended use of the public record. However, providing such information may benefit the requester by enhancing the ability of the City to identify, locate and deliver the public records requested. The requester may use a form developed by the City to more efficiently identify the records requested and facilitate the release or copying of such records.

## **Section 2.3**

Public records can be accessed by one of the following methods: a request to view public records in person; a request for copies of public records that the requester will personally pick up from the office of the City Manager; or a request for copies of public records that the requester wants to have mailed or otherwise transmitted to the requester.

Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; the physical state of the record and the necessity for any legal review of the records requested.

## **Section 2.4**

A requester may request that copies of public records be transmitted to him or her by U.S. Mail or by any other means of transmission that is available and is conducive to transmitting the public records. The cost of transmission must be paid by the requester before the public records will be provided.

## **Section 2.5**

On request, records will be copied to paper or if the record is kept by the City in another medium, the requester may request that the record be produced in that alternate medium. There is no requirement that the City create records in an electronic format if such records are not already maintained or retained in that format.

## **Section 2.6**

Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary ordinances, forms and applications, and personnel rosters. If fewer than ten (10) pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made available as quickly as the equipment allows.

## **Section 2.7**

All requests for public records must either be satisfied or be acknowledged in writing by the office of the City Manager within three (3) business days following the office's receipt of the request. If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following:

- An estimated number of business days it will take to satisfy the request.
- An estimated cost if copies are requested.
- Any items within the request that may be exempt from disclosure.

## **Section 2.8**

Any denial of public records requested must include an explanation, including legal authority for such denial. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the remaining records released. If there are redactions, each redaction must be accompanied by a supporting explanation.

## **Section 3. Fees and Payment**

Those seeking public records will be charged only the actual cost of making copies or printing pictures and shall also pay the actual cost (e.g. postage) of delivery and other supplies used in mailing, delivery or transmission of the public record. Payment for public records requests may be required prior to the actual copying or printing of records.

Copies made on letter or legal size paper are \$0.07 per page. Ohio law may provide for specific fees to be charged for certain records (e.g. police accident reports \$4.00 each, with photographs at an additional cost, pursuant to R.C. §5502.12). If the City receives a request which results in copying ten (10) or fewer pages, the City Manager may waive the copy costs. If the City uses an outside copying service to make the copies, such as blue prints or large volume requests, the requester will be required to pay the cost of the entire copying job, as billed by the copying service. Copies that are requested in some format other than letter size or legal paper will be "at cost," without taking into account employee time spent preparing the copies. (For example, public records in electronic format placed on a CD will be assessed the cost of the CD, plus the actual cost, if any, of creating the electronic copies.)

Public records will only be copied by the office of the City Manager or other authorized officers, employees or representatives designated or requested by the City Manager. The City Manager may use an outside copying service to make the copies, at the City Manager's discretion. Under no circumstances will the requester be permitted to make the copies himself or herself. The manner of copying is at the discretion of the City Manager.

## **Section 4. Denial of a Public Records Request**

Under certain circumstances, records are not defined as "public records" under Ohio law or are exempt from disclosure under state or federal law. In these situations, the public record request will be denied on that basis. The Ohio Revised Code requires that any denial be supported by legal authority. A denial that is responding to a written public records request will also be given in writing. Written reasons for denial will not be required for verbal public records requests. Any denial of public records requested must include an explanation, including legal authority.

The Ohio Revised Code regards certain actions as being “denials” of public record requests. These situations shall be addressed as follows:

(a) Redaction. The Ohio Revised Code defines a “redaction” as “obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a ‘record’ in section 149.011 of the Revised Code.” Examples of redaction are “blacking out” or “whiting out” or “cutting out” portions of a document.

When a public record contains information that is not within the definition of a “public record” as defined by law, or is exempt by law, the City Manager will make available that portion of the public record that does meet the definition of a “public record.” The City Manager or designee shall make a copy of the public record, perform the redaction, then make a copy of that sheet and make the second copy available to the requester. The requester will not be charged for the first copy made. If practical, the first copy will be retained by the Public Records Custodian.

(b) Requests that are ambiguous, overly broad, or are difficult to identify the public records requested. At times, a requester may make a public records request from which the City Manager cannot determine which public records are being sought. In such circumstances, the City Manager will inform the requester that the public records request is denied, but will give the requester an opportunity to more accurately describe the public records sought. If the requester is seeking public records organized in a certain way, but the public records are not organized in that way, the City Manager will inform the requester of the manner that the public records of the office under discussion are maintained and accessed. The requester may then submit a public records request that more accurately reflects the actual organization of the public records sought.

#### **Section 5. Compliance**

The City Manager reserves the right to consult with legal counsel prior to the release of any public records. This is to allow the City to comply with laws regarding the release of certain records.

#### **Section 6. Failure to respond to a public records request**

The City of Montgomery recognizes the legal and non-legal consequences of failure to properly respond to a public records request. A public office’s failure to comply with a request may result in remedies and damages according to R.C. 149.43.