

**City of Wilmington
Public Records Policy
Adopted September 20, 2007**

I. Purpose

The City of Wilmington maintains many records that are used in the administration and operation of the City. In accordance with State law, the City of Wilmington Records Commission has adopted a schedule of records retention and disposition that identify these records and this schedule is available in the Mayor's office. This schedule lists generally the types of records that are stored on a fixed medium (paper, computer, film, etc.) that are created, received, or sent under the jurisdiction of the City and document the organization, functions, policies, decisions, procedures, operations, or other activities of the City. The records maintained by the City and the ability to access them are means to provide trust between the public and the City.

II. Custodian of Public Records; When available

The Clerk of Council is the official Public Records Custodian of all records which are centrally maintained by the City. Department heads are the official custodians of all records maintained within their departments. Public records requests may be made directly to Department heads or through the Public Records Custodian. Requests for records from the police department may be made directly to the police records clerk on the first floor of the City Building.

Public records requests will be accommodated during regular business hours when offices maintaining said records are open for business. Public records requests will not be accepted on weekends or holidays.

III. General Provisions

Section 1. Public records

Public records include the following: Any document – paper, electronic (including, but not limited to, e-mail), 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 Wilmington are public unless they are specifically exempt from disclosure under the Ohio Revised Code or Federal law.

Section 1.1

It is the policy of the City of Wilmington that 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 Public Records Custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Section 2.2

The Public Records Custodian may ask the requester to put a verbal request in writing, may ask for the requester to give identifying information, or may inquire about the intended use of the information; but a written request is not mandatory, identifying information is not required and the intended use does not have to be disclosed. However, providing such information would benefit the requester by enhancing the ability of the Public Records Custodian to identify, locate and deliver the public records requested. Some Departments have forms that the requester has the option of using in making the request.

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 Public Records Custodian; 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; and the necessity for any legal review of the records requested.

a. Request to view public records. The requester may make a request to view public records. The Public Records Custodian shall prepare the public records for inspection "promptly," as required by the Ohio Revised Code. The actual time required to comply with the request may depend on the circumstances (such as the location of the records, the manner kept or the volume of records requested).

b. Copies of public records. The requester may make a request to the Public Records Custodian to have copies of public records made.

c. Transmitting copies of public records. 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. While the City is under no obligation to provide records in electronic format, it is the policy of the City to provide

information to the public in the most practical and convenient manner, considering all of the circumstances. Therefore, if the City receives a request for information to be made available in an electronic format, such request will be forwarded to the Public Records Custodian for a determination as to whether such information will be generated and released in an electronic format.

Section 2.3

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 information, forms and applications, personnel rosters, etc. If fewer than 20 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 as quickly as the equipment allows.

Section 2.4

All requests for public records must either be satisfied or be acknowledged in writing by the public office within three 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:

Section 2.4a – An estimated number of business days it will take to satisfy the request.

Section 2.4b – An estimated cost if copies are requested.

Section 2.4c – Any items within the request that may be exempt from disclosure.

Section 2.5

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

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 \$0.05 per page. If the Public Records Custodian uses an outside copying service to make the copies, 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 normal letter 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 cost, if any, of creating the electronic copies.)

Public records will only be copied by the Public Records Custodian or other authorized officers, employees or representatives. The Public Records Custodian may use an outside copying service to make the copies, at the Public Records Custodian'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 Public Records Custodian. Requests to copy a certain number of public records on a given page, by "reducing" copy size or otherwise, may be met at the discretion of the Public Records Custodian.

Individual departments may adopt a policy that if fewer than 10 pages of copies are requested, no fee will be charged. All requests exceeding 10 pages will be charged a fee of \$0.05 per page for all pages copied. No receipt will be required to be issued for payments received of less than \$1.00.

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).

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 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. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority, unless federal or state law authorized or requires the redaction.

The Ohio Revised Code regards certain actions as being "denials" of public record requests. These situations are handled 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 Public Records Custodian will make available that portion of the public record that does meet the definition of a "public record." The Public Records Custodian 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 Public Records Custodian cannot determine which public records are being sought. In such circumstances, the Public Records Custodian 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 Public Records Custodian 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 Public Records Custodian 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 Wilmington 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.

END OF POLICY
