



## **208 PUBLIC RECORDS**

**9/07**

### **I. Statement of Policy**

The City of Miamisburg acknowledges that it maintains records that are used in the administration and operation of the City of Miamisburg. In accordance with state law and the City of Miamisburg's Records Commission, the City of Miamisburg has adopted Schedules of Records Retention and Disposition (RC-2) that identify these records. It is the policy of the City of Miamisburg to strictly adhere to the State of Ohio's Public Records Act by making all public records promptly available for public inspection by any person at reasonable times in accordance with ORC 129.43 (B)(1). All records of the City of Miamisburg are public unless they are exempt from disclosure under the Ohio Revised Code. All exemptions to disclosure will be accompanied by an explanation as outlined in the Ohio Revised Code. The records maintained by the City and the ability to access them are means to provide trust between the public and the City.

### **II. Scope**

The Clerk of Council is the official public records custodian of all records pertaining to City Council actions. The Assistant City Manager is the official public records custodian of all records pertaining to personnel and administrative policy and actions. With exception of police department records, all public records requests must be directed to the Clerk of Council or Assistant City Manager. Requests for records from the police department may be made directly to the department's Records Clerk.

Public records requests will be accommodated during regular business hours between 8:00 a.m. and 5:00 p.m. on regular business days. Public records requests will not be accepted on weekends or holidays.

The definition of a public record is set forth in the Ohio Public Records Act, a copy of which is retained by the Assistant City Manager. Information is also available on the Ohio Attorney General website at [www.ag.state.oh.us](http://www.ag.state.oh.us), and the Ohio Revised Code Chapter 149.43. Documents in electronic mail format are also records as defined by the Ohio Revised code and shall follow the same procedures for inspection and copying in accordance with the Public Records Act.

### III. Inspection

All public records maintained by the City shall be promptly prepared and made available for inspection to any person during regular business hours. Prompt inspection and copies of records within a reasonable amount of time contemplates the opportunity for legal review. The time for compliance with a request for public records will depend upon the availability of records, the manner in which they are kept, and the volume of records requested.

A public records request may be written or verbal. **The Ohio Public Records Act and the City of Miamisburg do not require that a public record requestor provide their request in writing, acknowledge their identity, nor state the purpose of their request.** However, if an effort to ensure that the documents to be provided to the requestor comply with their request, the requestor will be asked to complete a public records request form (attached). **If the requestor chooses to not complete the form, the public records shall still be provided to the requestor.**

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 requestor will personally pick up from the Public Records Custodian; or a request for copies of public records that the requestor wants to have mailed or otherwise transmitted to the requestor.

- Request to view public records. The requestor 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).
- Copies of public records. The requestor may make a request to the Public Records Custodian to have copies of public records made.
- Transmitting copies of public records. A requestor 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 requestor before the public records will be mailed. 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, the Public Records Custodian will make a determination as to whether such information will be generated and released in an electronic format.

### IV. Fees and Payment

Public Records will be provided at the actual cost of copying or reproducing the records. The requestor shall also pay the actual cost (postage) of delivery and other supplies used

in the mailing, delivery or transmission of the public record. Payment for public records requests must be made prior to the actual copying of the 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).

Public records will only be copied by the Public Records Custodian or other authorized officers, employees or representatives. 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.

If fewer than 20 pages of copies are requested, no fee will be charged. If the request exceeds 20 pages, the fee will be \$0.05 per page for all pages copied.

## **V. Denial of a Public Records Request**

Under certain circumstances, records are not defined as “public records” under Ohio 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 remaining 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:

- **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, 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.

- 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.

## **VI. Compliance**

The Public Records Custodian reserves the right to consult with legal counsel prior to the release of any public records. This is to ensure that the City is able to comply with laws regarding the release of certain records.

## **VII. Failure to respond to a public records request**

The City of Miamisburg recognizes the legal and non-legal consequences of failure to properly respond to a public records request. If a public records requestor is allegedly aggrieved due to the denial to inspect a public record or due to the denial to receive a copy of a public record, the requestor shall be advised that they may 1) contract the City Manager, or if not satisfied after contacting the City Manager, 2) the requestor shall be advised that Ohio Revised Code (R.C. 149.43 (C)(1)(2)) provides legal means for addressing their complaint.

## **VIII. Training and Education**

The City of Miamisburg continues to update and address all education, training, disclosure, and policy requirements mandated by the Ohio Revised Code.