

CITY OF HAMILTON, OHIO

No. 333

ADMINISTRATIVE DIRECTIVE

Effective Date: 11-18-16

Supersedes: No. 333 Dated 11/6/07, 06/25/14

Approved by: Joshua A. Smith,
City Manager

SUBJECT: RECORDS RELEASE POLICY

REFERENCES: Ohio Revised Code Chapter 149; Ohio Revised Code Section 1306.01

PURPOSE: In accordance with the state law and the Records Commission for the City of Hamilton, departmental Record Retention Schedules have been established. These Records Retention Schedules list all records and the period of time they are maintained. These records are maintained for the operation of City offices and to provide a source of information for the public we serve. It is the primary goal of the City that it serves the citizens of Hamilton in a manner of trust. These records, and the ability to have access to them, are a means to provide trust between the citizens and the City of Hamilton. The Hamilton Records Release Policy provides for full and prompt disclosure of public records and assures that City employees take all reasonable steps to comply with proper requests for public records.

1. Definitions.

- a. “Records” are documents, devices, or items regardless of physical form or characteristic, including an electronic record as defined in Section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office. Provided, however, they shall not include those items specifically excluded from the definition of Public Record under the Ohio Revised Code as amended from time to time.

2. Maintaining Public Records.

- a. Public Records shall be organized and maintained in a manner which facilitates inspection and shall be retained pursuant the applicable record retention policy established by the City for each Department and Division.
- b. Each Departmental Records Custodian will have a copy of their Records Retention Schedule available at all times.

3. Requests.

- a. Requests for public records may be written or oral. If a public records request is made orally and cannot be immediately fulfilled, then the person receiving the request will write down the request on the **Public Records Request Form** and read it back to the Requestor to make sure the request is accurate. Each Departmental Records Custodian will be responsible for completing the required information on the **Public Records Request Log** to ensure that a comprehensive log of all public records requests and how each request was fulfilled is maintained (if the identified Departmental Records Custodian is out of the office, the request **must** be forwarded to the City Clerk). If a request is written, the date the request was received shall be indicated on the **Public Records Request Form** and the written request shall be attached to the **Public Records Request Form**. The **Public Records Request Form** need not be completed for standard and customary requests that are

- fulfilled at the time of the request. Standard and customary oral requests are requests for a specific, readily accessible record which can be immediately fulfilled.
- b. The City Clerk is responsible for maintaining the Public Records Request Log and ensuring that public records requests are answered in a timely manner.
 - c. If the Employee receiving the request does not have the authority to respond to the request, or have custody of the requested documents, he or she shall obtain the necessary information to fulfill the request by completing the **Public Records Request Form** and shall forward the completed Form to the City Clerk. It is the policy of the City that all public records requests are responded to, as appropriate, in a reasonable amount of time given the nature of the request and the circumstances of the request.
 - d. If a Requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the employee taking the request or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the employee or the person responsible for the requested public record may deny the request but shall provide the Requester with an opportunity to revise the request by informing the Requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.
 - e. A Hamilton Departmental Records Custodian Roster indicating the Records Custodian for each Department is included in order to quickly identify the appropriate Records Custodian upon receipt of a public records request.
 - f. The City may be liable for statutory damages if it fails to comply with any public records request. **Accordingly, if a public records request is not expected to be fulfilled within five (5) business days, a copy of same shall be sent to City Clerk for monitoring even if the employee receiving the written request is the holder of the requested records.** The holder of the requested records shall respond timely to the records request.

4. **Handling Requests.**

- a. Public Records will be made available for inspection to any person at reasonable times during regular business hours. The regular business hours for the City Offices are from 8:30 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays. The regular business hours for the Divisions of Police and Fire are 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.
- b. Requests for Inspection. Upon request, all public records responsive to a request shall be promptly prepared and made available for inspection by the public office or person responsible for the public records at all reasonable times during regular business hours. The City may require that a City employee is present during the inspection but shall not deny an inspection if no employee is available.
- c. Requests for Copying. Upon request, all public records responsive to a request shall be copied by a City employee and made available within a reasonable amount of time. Cost of copying is currently \$.05/per page for standard copies. Any required payment shall be made in advance.
- d. Requests for Mailing. Upon request, all public records responsive to a request shall be compiled and shall be mailed to the Requester within a reasonable time, provided the Requester has provided the necessary mailing information. A department within the City may establish its own policy for charging for postage and copies provided the costs (if any) is limited to the actual cost of postage and cost of copying.
- e. Requests for Video and Audio. Upon request, all public records responsive to a request shall be compiled in a reasonable time. Persons requesting copies of audio or video records are required to furnish blank recording tapes or discs, of sufficient quality, to allow reproduction of the requested material.

- f. Requests for Photographs. Upon request, all public records responsive to a request shall be compiled in a reasonable time. Persons requesting photographs pursuant to this policy shall be charged only the actual cost incurred by the department for the reproduction of these photographs. Photographs of police officers, firefighters or EMTs that identifies their occupation shall not be disclosed.
- g. Requests for Electronic Media. Upon request, all public records responsive to a request shall be compiled in a reasonable time. If any person chooses to obtain a copy of a public record that is in an electronic format, the City may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy. The Requester may choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the City determines that it reasonably can be duplicated as an integral part of the normal operations of the City.

5. Excluding Information.

- a. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the office or the person responsible for the public record notify the requester that their request has been denied due to redaction, then shall make available all of the information within the public record that is not exempt.
- b. If it is not clear whether the record is one that can be released, the Requester should be told that it is not clear if a public record can be released and that the City will allow inspection or provide copies to the extent permissible as soon as legal counsel has had an opportunity to review the request. A copy of the **Public Records Request Form** shall then be immediately sent to the Law Director, with a copy to the City Clerk for monitoring.
- c. **Redacting information from a public record is considered a denial of a public record.** When making a public record available for public inspection or copying that has had information redacted, the City shall notify the Requester of the redaction or make the redaction plainly visible.
- d. If a request is ultimately denied, in part or in whole, (which includes any redactions) the employee shall complete a **Denial of Public Records Request Form** and shall provide the Requester with a written explanation, including legal authority, why the request was denied or information redacted. Provided, however, if the denial is a “redaction in the ordinary course” a **Denial of Public Records Request Form** is not required, but the Requester must still receive the Written Explanation for Denial of Records Request, if the request was in writing. If the request was oral, the Requester may be told orally why the request was denied.
- e. A “redaction in the ordinary course” is a redaction that is always done on a particular class of record such as eliminating social security numbers from a police report.
- f. If a single Requester makes a single request for multiple records, only one Denial Form and Written Explanation for Denial of Records Request, need be completed for the request but each reason for denial shall be indicated on the forms.

PUBLIC RECORDS REQUEST FORM INSTRUCTIONS

Instructions for City Employee:

It is the policy of the City that all public records requests be responded to, as appropriate, in a reasonable amount of time given the nature of the request and the circumstances of the request.

This form is to be completed upon receipt of a request for public records that is not immediately fulfilled. The employee taking the request should put his or her name on the line marked "Request Made to _____" and indicate his or her department on the next line "Department _____". If you do not have the authority to respond to the request, or do not have custody of the requested documents, complete this form and immediately forward it to the City Clerk.

Public records requests may be written or oral. If a public records request is made orally, and cannot immediately be fulfilled, write down the request on this form and read it back to the requesting party to make sure the request is accurate. If the request is written, complete the form and attach the written request. If you were not able to understand the request, you must inform the requester of the right to revise the request and advise the requester of the manner in which records are kept and accessed in the ordinary course of the City's operation.

If you are not sure whether the record is one that can be released, you should advise the Requester of that fact and that the City will allow inspection or provide copies to the extent permissible as soon as our legal counsel has had an opportunity to review this request. A copy of the Public Records Request Form shall then be immediately sent to the Law Director, with a copy to the City Clerk for monitoring.

If a Requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the employee taking the request or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the employee or the person responsible for the requested public record may deny the request but shall provide the Requester with an opportunity to revise the request by informing the Requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

Requests for Inspection. The City may require that a City employee be present during the inspection but shall not deny an inspection if no employee is available.

Requests for Video and Audio. Persons requesting copies of audio or video records are required to furnish blank recording tapes or discs, of sufficient quality, to allow reproduction of the requested material.

Requests for Photographs. Persons requesting photographs shall be charged only the actual cost incurred by the department for the reproduction of these photographs. Photographs of police officers, firefighters or EMTs that identifies their occupation are not to be disclosed.

Requests for Electronic Media. If a Requester chooses to obtain a copy of a public record that is in an electronic format, he or she shall pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy. The Requester may choose to have the public record duplicated upon paper, upon the same medium upon which the City keeps it, or upon any other medium upon which the City determines that it reasonably can be duplicated as an integral part of the normal operations of the City.

DENIAL OF PUBLIC RECORDS REQUEST INSTRUCTIONS

Instructions for City Employee:

Redacted information is considered a denial in part of a public record request and the requester must be provided with explanation for redaction.

When making a public record available for public inspection or copying that has had information redacted, you must notify the Requester of the redaction or make the redaction plainly visible.

If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, you must still make available all of the information within the public record that is not exempt.

If it is not clear whether the record is one that can be released, the Requester should be told that it is not clear if a public record can be released and that the City will allow inspection or provide copies to the extent permissible as soon as legal counsel has had an opportunity to review the request. A copy of the Public Records Request Form shall then be immediately sent to the Law Director, with a copy to the City Clerk for monitoring.

If a request is ultimately denied, in part or in whole, (which includes any redactions) you must complete this Denial Form and provide the Requester with the Written Explanation for Denial of Records Request form (which is an explanation, including legal authority, why the request was denied or information redacted).

If the denial is a “redaction in the ordinary course” this Denial Form is not required, but the Requester must still receive the Written Explanation for Denial of Records Request, if the request was in writing. If the request was oral, the Requester may be told orally why the request was denied. A “redaction in the ordinary course” is a redaction that is always done on a particular class of record such as eliminating social security numbers from a police report.

If a Requester request records that the City does not maintain, (For example, requesting copies of all traffic accident reports filed on one particular date, but the office files them alphabetically by driver name) the request may be denied but only after providing the Requestor with an opportunity to revise the request by informing the Requester of the manner in which records are maintained and accessed in the ordinary course of the public office’s or person’s duties.

If a Requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the employee taking the request the person responsible for the requested public record cannot reasonably identify what public records are being requested, the employee or the person responsible for the requested public record may deny the request but shall provide the Requester with an opportunity to revise the request by informing the Requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office’s or person’s duties. Reference Ohio Revised Code Section 149.43(B)(2).

HAMILTON PUBLIC RECORDS RELEASE POLICY

Openness leads to a better informed citizenry, which leads to better government and better public policy. It is the mission and intent of the City of Hamilton to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act.

A "record" is defined to include the following: A document in any format – paper or electronic – that is created, received by, or comes under the jurisdiction of the City of Hamilton that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

A "public record" is a "record" that is being kept by this office at the time a public records request is made, subject to applicable exemptions from disclosure under Ohio or federal law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

Public records are available for inspection during regular business hours. 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 necessity for any legal review and redaction, and other facts and circumstances of the records requested.

No specific language is required to make a request for public records. However, the Requester must at least identify the records requested with sufficient clarity to allow the office to identify, retrieve, and review the records.

The Requester does not have to put a public records request in writing, and does not have to provide his or her identity or the intended use of the requested public record(s).

In processing the request, the City does not have an obligation to create new records or perform a search or research for information in the office's records. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through the City's standard use of sorting, filtering, or querying features.

In processing a request for inspection of a public record, a City employee may be required to accompany the Requester during inspection to make certain original records are not taken or altered.

If the Requester makes an ambiguous or overly broad request or has difficulty in making a request such that the City cannot reasonably identify what public records are being requested, the request may be denied, but the City will then provide the Requester an opportunity to revise the request by informing the Requester of the manner in which records are maintained and accessed by the City.

If the City withholds, redacts, or otherwise denies requested records, the City will provide an explanation, including legal authority, for the denial(s). If the initial request was made in writing, the explanation will also be in writing. If portions of a record are public and

portions are exempt, the exempt portions may be redacted and the rest will be released. When making public records available for public inspection or copying, the City shall notify the Requester of any redaction or make the redaction plainly visible.

Charges for postage and/or copies are limited to the actual cost of postage and mailing supplies, or other actual costs of delivery and/or copying, if any. Cost of copying is \$.05 per page for standard copies. A Requester may be required to pay in advance for the actual costs involved in providing the copy. The Requester may choose whether to have the record duplicated upon paper, upon the same medium on which the public record is kept, or upon any other medium on which the office determines that the record can reasonably be duplicated as an integral part of the office's normal operations.

HAMILTON PUBLIC RECORDS CUSTODIAN ROSTER

Department	Staff
City Clerk	Nick Garuckas
City Manager's Office	Amy Bach
Civil Service & Personnel	Rebekah Cremeans
Civil Service & Personnel	Dawn Reed
Community Development	Kimberly Kirsch
Community Development	Karen Mansdorfer
Community Development	Tracy Hymer
Community Development	Kay Farrar
Community Development	Ken Rivera
Economic Development	Jody Gunderson
Finance	Eric Hein
Finance	Pat Bigler
Fire	Ken Runyan
Fire	Gwena Marcum
Human Resources	Marcos Nichols
Municipal Court	Michelle Deaton
Police	Allison Baker
Police	Bryan Robinson
Public Utilities	Debbie Bennet
Public Utilities	Jean Piatt
Public Utilities	Peggy Bange
Public Utilities	Theresa Neal
Public Utilities	Kelly Cupp
Public Utilities	Cathy Creager
Public Works/Resident Services	Tami Rose
Public Works	Suzanne Paul
Public Works	Kris Butterfield
Strategy and Information	Manju Bhargava

ACKNOWLEDGMENT OF RECEIPT
OF
THE CITY OF HAMILTON'S PUBLIC RECORDS RELEASE POLICY
AND
ADMINISTRATIVE DIRECTIVE NO. 333

I have received a copy of the City of Hamilton's Records Release Policy and Administrative Directive No. 333. I understand the forms included in the City policy. I understand it is my responsibility as a Departmental Records Custodian for my respective area in the organization to read and comply with this policy. I agree to direct any questions regarding a public records request to the City Clerk for guidance.

Employee Printed Name: _____ Date: _____

Employee Signature: _____