

City of Portsmouth Public Records Policy

Purpose

The City of Portsmouth maintains many records that are used in the administration and operation of the City. In accordance with state law, the City of Portsmouth Records Commission has adopted a schedule of records retention and disposition that identify these records and this schedule is available in the City Administrator's office and in each department. 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.

Custodian of Public Records; When available

The City Clerk is the official Public Records Custodian for the City Council. 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 at the City of Portsmouth Police Department.

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 City approved holidays.

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 Portsmouth are public unless they are specifically exempt from disclosure under the Ohio Revised Code or Federal law.

Section 1.1 Organization and Retention

It is the policy of the City of Portsmouth that records will be organized and maintained so that they are readily available for inspection and copying. Public records maintained are subject to the City's Public Record Retention Schedule.

Section 2. Record requests

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

- a. 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 requester in revising the request by informing the requester of the manner in which the office keeps its records.
- b. 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.

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. Each request should be evaluated for an estimated length of time required to gather the records.

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:

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

Section 3. 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. Public records to be transmitted by United States mail are limited to ten (10) per month unless the requester certifies to the City of Portsmouth that the requester does not intend to use or forward the requested records, or the information contained in them, for commercial purposes as defined by R.C. 149.43(B)(7).

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. It is the Public Records Custodian's discretion whether the information requested will be generated and released in an electronic format. Any document transmitted electronically shall be in PDF format, or some other non-editable format.

Section 4. 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.

Copies made on letter or legal size paper are \$0.10 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 video tapes, cassette tapes or for any other type of media, the fee shall be the replacement cost or the reproduction cost. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the service.

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 him or herself

No fee will be charged if fewer than 5 pages of copies. All requests exceeding 5 pages will be charged a fee of \$ 0.10 per page for all pages copied. All copying costs are to be paid before the records are copied. Regardless of the number of copies, the requester shall pay the cost of postage if U.S. mail delivery has been requested.

Ohio law may provide for specific fees to be charged for certain records such as police accident reports at \$3.00 each, with photographs at an additional cost, pursuant to R.C. §5502.12. These amounts are subject to change with amendments to the legislation.

Section 5. 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. 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 explanation for a denial of any record must be provided in writing only if the request was received in writing.

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

- a. 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 6. Record of Public Records Requests

Each office will maintain a log of public records requests noting the date received, the documents requested, the name of the requestor (if known), the status of the request (if sent to Solicitor for opinion, for example), the documents provided and the date the request was fulfilled. If a record is refused or redacted, that will also be noted in the log. A copy of the request and the document requested will also be kept, if practical. Some records may be too large to be copied or be unnecessary to keep an additional copy.

Section 7. Public Records Commission

There is hereby created a records commission composed of the City Manager or the City Manager's appointed representative, as chairperson, and the City Auditor, the City Solicitor, and a citizen appointed by the City Manager. The commission shall appoint a secretary, who may or may not be a member of the commission and who shall serve at the pleasure of the commission. The commission may employ an archivist or records manager to serve under its direction. The commission shall meet at least once every six months and upon the call of the chairperson.

The functions of the commission shall be to provide rules for retention and disposal of records of the municipal corporation, and to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by municipal offices. The commission may dispose of records pursuant to the procedure outlined in section 149.381 of the Ohio Revised Code. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule under the procedure outlined in that section.

Section 8. 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.

The City of Portsmouth recognizes the legal and non-legal consequences of failure to properly respond to a public records request.