

# Freedom of Information Act Policy



The Mayor & Council of Middletown  
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Town of Middletown Policy Library: Policy 4.1.1  
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Responsible Executives: Mayor & Council of Middletown, Delaware  
Responsible Office: Public Relations  
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## CONTENTS:

- I. [Policy Statement](#)
- II. [Records Availability](#)
- III. [Requests for Public Records](#)
- IV. [Response to Requests](#)
- V. [Fees for Copying](#)
- VI. [Administrative Fees](#)
- VII. [Payment of Fees](#)

## RELATED DOCUMENTS:

29 Delaware Code § 10003  
Town of Middletown Charter

## I. Policy Statement

The purpose of this policy is to designate procedures relating to the inspection and duplication of public records held by the Town of Middletown pursuant to 29 Delaware Code, Chapter 100, the Freedom of Information Act for the State of Delaware.

It is the Town's goal to establish this policy to maximize the amount of information available to the public, to streamline procedures used to disseminate information and to establish a reasonable fee structure for providing public records.

### ***29 Delaware Code, section 10003, reads as follows:***

*"(a) All public records shall be open to inspection and copying by any citizen of the state of Delaware during regular business hours by the custodian of the records for the appropriate public body. Reasonable access to and reasonable facilities for copying of these records shall not be denied to any citizen.*



*If the record is in active use or in storage, and, therefore, not available at the time a citizen requests access, the custodian shall so inform the citizen and make an appointment for said citizen to examine such records as expeditiously as they may be made available.*

*Any reasonable expense involved in the copying of such records shall be levied as a charge on the citizen requesting such copy; (b) It shall be the responsibility of the public body to establish rules and regulations regarding access to public records as well as fees charged for copying of such records."*

*This policy does not apply to the Town in its normal business with Federal, State or local agencies, nor to private parties with whom the Town is conducting business (i.e.: permits, licenses, contractual agreements, etc.) It does apply to the Town in its dealing with requests from the public for information as set forth in the FOIA.*

The Town believes public business should be performed in an open and public manner so that citizens are advised of the performance of officials and their decisions. In accordance with the FOIA, the public has the right to reasonable access to public records. It is the responsibility of the Mayor & Council to establish rules and regulations regarding access to records as well as fees charged for copying of such records. All employees of the Town of Middletown shall comply with the FOIA and all requests for information shall be processed in the following manner:

## **II. Records Availability**

- a. The Town will provide reasonable access and facilities for reviewing public records during regular business hours.
- b. The Town shall make all requested records available for review by the requestor unless such records or even portions of the records are determined to be exempt pursuant to 29 Delaware Code, section 10002 (d).
- c. Prior to disclosure, records will be reviewed to insure records or portions of records deemed non-public are removed. The types of records deemed non-public are explained in 29 Delaware Code, section 10002 (d).

## **III. Requests for Public Records**



- a. Requests for access to records shall be made in writing by submitting a Town of Middletown Freedom of Information Act Request Form. Forms are available at Town Hall at the address above, via fax by calling (302) 378-2711, or online at [www.middletownde.org](http://www.middletownde.org).
- b. Requests for access to records shall adequately describe the record(s) sought in sufficient detail to enable the Town to locate the record with reasonable effort. The Town shall make every reasonable effort to assist the requestor in identifying the record being sought. If a department is unsure that an item is "public record," the request for documentation should be forwarded to the Town's Public Relations Officer for consultation with the Town Solicitor to determine if the documents requested are in fact "public record" and fall under the jurisdiction of the FOIA.

## IV. Response to Requests

- a. The Town shall make every reasonable effort to respond to a request within ten (10) business days. However, if the request is lengthy or requires extensive research in the town's archives, the Town will do everything in its power to follow the 10-day rule. However, if that is not possible, the Town will explain, in writing, to the requestor the reason for the delay and will give a date for estimated completion of the request.
- b. If the Town denies a request in whole or in part, the Town shall explain to the requestor the reason for the denial.
- c. Denied requests may be appealed by submitting to Mayor & Council a written appeal that specifically indicates it is an "appeal of a FOIA request" and gives the reason(s) for reversal of the denial.
- d. The requestor may file suit in accordance with 29 Delaware Code, section 10005.



## V. Fees for Copying

- a. Standard sized, black and white copies will be charged at the rate of \$.25 per page. 8.5" X 11", 11" X 17", and 8.5" X 14" paper sizes apply.
- b. Copies of development plans are available for a charge of \$10 for the first sheet, \$5 each additional sheet.
- c. Audio copies of town council or planning and zoning meetings on CD are available for a charge of \$10 each. Some meetings may run onto two or more CDs; in this case, the first CD is \$10, each additional CD is \$5, as long as the taping is from the same meeting.
- d. Other charges include the town's zoning code and map -- \$45; comprehensive plan -- \$30; town charter -- \$15; zoning map -- \$15; subdivision regulations -- \$30; construction specifications -- \$35.
- e. The Town reserves the right to refuse to make copies for requestors who have an outstanding balance of FOIA request charges due to the Town.

## VI. Administrative Fees

The following are administrative fees for providing public records above and beyond the standard public records request (requests that take more than one quarter-hour to complete.) Labor costs will be charged after the first quarter-hour spent fulfilling each FOIA request:

- a. Labor costs: In calculating the cost of labor incurred, the town may not charge more than \$10 per hour for each hour an employee spends fulfilling a FOIA request. Charges will be billed to the requestor by the quarter-hour after the first quarter-hour has been logged. Labor charges will be charged in addition to any duplicating/ copying charges. Charges for labor costs include:
  - i. Staff time associated with processing FOIA requests;
  - ii. Locating and reviewing files;
  - iii. Monitoring file reviews by the requestor;



- iv. Generating computer records (electronic or printed);
  - v. Any other time rendered by the employee in researching, examining, developing, duplicating, reviewing and separating exempt from non-exempt information requested.
- b. Any other costs such as postage, packaging and material, will be charged to the requestor.
  - c. If the Town does not have the resources to duplicate the requested record(s), the Town, at its discretion, may arrange to have record(s) duplicated by an outside contractor. In this instance, the requestor will be responsible for the payment of these costs.

## **VII. Payment of Fees**

- a. Payment for copies and/or administrative costs will be due at the time copies are released to the requestor.
- b. The Town may require pre-payment of charges prior to mailing requested records.
- c. A good faith deposit may be asked for in advance of requests estimated to be more than \$50. The deposit shall not exceed one-half of the total estimated fee.