

CITY OF DELAWARE, OHIO
1 South Sandusky Street
Delaware, Ohio 43015

RECORDS MANAGEMENT POLICY

I. Purpose:

The City of Delaware, Delaware County, Ohio, hereafter referred to as the City, acknowledges that it maintains many records that are used in the administration and operation of the City. In accordance with state law and rules established by the City of Delaware Municipal Records Commission, the City has adopted Schedules of Records Retention and Disposition (RC-2) that identify these records. These schedules identify records that are stored on a fixed medium that are created, received, or sent under the jurisdiction of the City and documents 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 a means to provide trust between the public and the City.

II. Scope:

Each office, department or function that maintains records has a designated employee who serves as the custodian of all records maintained by the office, department or function.

The period of time for which the City stores or maintains records was determined by assessing the administrative, legal, fiscal, and/or historical value of the records to the City, efficient business practices, and by reviewing the suggested retention periods developed by the Local Government Records Program for the Ohio Historical Society.

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III. Definitions:

A. "Records" (As used in Section 149.011(G) of the Ohio Revised Code): Includes any document, device, or item, regardless of physical form or characteristic, 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.

B. "Public Record" (As used in Section 149.43(A)(1) of the Ohio Revised Code): Records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by a nonprofit or for profit entity operating such alternative school pursuant to Section 3313.533 [3313.53.3] of the Ohio Revised Code. "Public record" does not mean any of the following:

1. Medical records;
2. Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;
3. Records pertaining to actions under Section 2151.85 and division (C) of Section 2919.121 of the Ohio Revised Code and to appeals of actions arising under those sections;
4. Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Ohio Revised Code;
5. Information in a record contained in the putative father registry established by section 3107.062 of the Ohio Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to Section 3111.69 of the Ohio Revised Code, the office of child support in the department or a child support enforcement agency;

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6. Records listed in division (A) of section 3107.42 of the Ohio Revised Code or specified in division (A) of section 3107.52 of the Ohio Revised Code;
7. Trial preparation records;
8. Confidential law enforcement investigatory records;
9. Records containing information that is confidential under section 2710.03 or 4112.05 of the Ohio Revised Code;
10. DNA records stored in the DNA database pursuant to section 109.573 of the Ohio Revised Code;
11. Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Ohio Revised Code;
12. Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Ohio Revised Code;
13. Intellectual property records;
14. Donor profile records;
15. Records maintained by the department of job and family services pursuant to Section 3121.894 of the Ohio Revised Code;
16. Peace officer, firefighter, or EMT residential and familial information;
17. In the case of a county hospital operated pursuant to Chapter 339. of the Ohio Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Ohio Revised Code, information that contains a trade secret, as defined in section 1333.61 of the Ohio Revised Code;
18. Information pertaining to recreational activities of a person under the age of eighteen;
19. Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Ohio Revised Code, other than the report prepared pursuant to section 307.626 of the Ohio Revised Code:

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20. Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Ohio Revised Code other than the information released under that section;

21. Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Ohio Revised Code or contracts under that section with a private or government entity to administer;

22. Records the release of which is prohibited by state or federal law;

23. Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Ohio Revised Code;

24. Information reported and evaluations conducted pursuant to section 3701.072 of the Ohio Revised Code;

25. Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance to the agency.

C. As used in Section 1347.01 of the Ohio Revised Code:

1. “Maintains” means state or local agency ownership of, control over, responsibility for, or accountability for systems and includes, but is not limited to, state or local agency depositing or information with a data processing center for storage, processing, or dissemination. An agency “maintains” all systems of records that are required by law to be kept by the agency.

2. “Personal information” means any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates

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that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person.

IV Fees:

A. The City, in accordance with Section 149.43 of the Ohio Revised Code, has established fees for providing copies or reproductions of public records maintained by the City.

1. For photocopies of either letter or legal size documents, the fees shall be as follows:

a. For the first through the twenty-fifth photocopy, there will be no charge.

b. For twenty-six or more photocopies, there is a fee of five (5) cents per photocopy calculated from the first photocopy. Requests of this type require advance payment prior to the preparation of any copies.

2. For video tapes, cassette tapes or for any other type of media, the fee shall be the replacement cost or the reproduction (copying) cost. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the copy. If the City creates the copy, a reproduction fee may not be charged. Advance payment is required when commercial or professional services are required to prepare the copy.

3. Bulk Commercial Requests and Special Extraction Costs will follow Ohio Revised Code Section 149.43 (E) (2).

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4. Upon a request made in accordance with section 149.43(B) of the Ohio Revised Code the City will transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The City or employee responsible shall require the requestor to pay in advance the cost of the delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

5. Established costs \ fees under this policy shall be clearly posted and visible to the public.

V. Availability:

A. All public records that are responsive to a public records request are promptly prepared and made available for inspection to any person at all reasonable times during regular business hours established by the City of Delaware. Additionally, each department or function of the City has a designated person or position assigned to facilitate the publics' access to public records. To better serve the public, each department or function maintains a copy of their Schedule of Record Retention and Disposition (RC-2) and a copy of this policy for public access and review. Departmental, office or functional records are the property of the City. No record shall be removed, changed, modified or destroyed except by a City employee in the performance of their official duties and as authorized under Ohio law.

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B. Individuals requesting access to inspect public records and/or receive copies of public records will be asked to voluntarily complete a written request (Form RC100) explaining or identifying the records they wish to inspect and/or receive copies of. In no event shall an individual be denied access to inspect and/or obtain copies of public records based on their refusal to complete a written request.

C. With the exception of Personnel Records for current and past employees of the City, requests for the inspection and/or copies of public records shall be directed to the office, department or function that maintains the record. The City has established general Schedules for Record Retention and Disposition (RC-2) for the following offices, departments or functions; PLEASE REFER TO APPENDEX A.

D. The regular business hours for the offices, departments and functions for City are 8:00am to 4:30pm, Monday through Friday except holidays.

E. The City Manager, under the authority and direction of the City Council, has designated an employee within every department, office or function under their direction to act as the custodian of records for their assigned unit. PLEASE REFER TO APPENDEX A.

F. Requests for Mailed (or other means of delivery or transmission) Public Records:

1. Upon receiving a request for copies of a public record (in accordance with section 149.43 of the Ohio Revised Code and this policy) via the United States Postal Service or other means of transmission or delivery, the City shall promptly respond to the request.

a. When practical, the City may forward copied records by facsimile or an e-mail system. The requestor shall be billed in accordance with the fee schedule established by this policy.

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2. In accordance with section 149.43 of the Ohio Revised Code, the City limits the number of responses for public records, to be transmitted through the U. S. Mail or by other transmission or delivery systems, to a maximum of ten records per month, unless the requestor certifies that the records or information in them will not be used for commercial purposes.

a. “Commercial purposes” shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

3. Authorized City employees shall comply with the following procedures upon receiving a valid public record request through the United States Postal System:

a. Public record requests for one to twenty-five pages will be mailed to the requestor and no payment shall be required of the requestor.

b. Public record requests that exceed twenty-five pages will require advance payment from the requestor. Form RC101 shall be completed and mailed to the requestor indicating the number of pages and the fees.

c. Requestors shall be charged the postage fees and the cost of the envelope required to properly send the requested records through the mail for all requests that exceed twenty-five copies.

G. Requests for records, in part or in whole, which are not maintained or are prohibited from release pursuant to applicable state or federal law, shall be processed in the following manner:

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1. If a public record request is denied the requestor shall be provided, in writing an explanation, including the legal authority, setting forth why the request was denied utilizing City Form RC101.

2. If the City receives a request for a record that it does not maintain or the request is for a record which is no longer maintained, the requestor shall be so notified in writing utilizing City Form RC101 that one of the following applies:

a. Their request involves records that have never been maintained by the City, or

b. Their request involves records that is no longer maintained or has been disposed of or transferred pursuant to applicable City Schedules of Record Retention and Disposition (RC-2). or

c. Their request involves a record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1).

d. If the requested record is not a record used or maintained by the City the requester shall be notified that in accordance with Ohio Revised Code Section 149.40, that the City is under no obligation to create records to meet public record requests.

H. Media Types/Distribution of Records

1. If a person requests a copy of a public record, the City shall permit the requestor to have the public record duplicated on paper or upon the medium upon which the City maintains the public record or upon any other medium on which the record can reasonably be duplicated. The request shall be acted upon and a copy of the public record prepared within a reasonable period of time. Fees shall apply in accordance with section IV of this policy.

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I. Grievances

1. If a person allegedly is aggrieved, due to the inability to inspect a public record or due to the inability to receive a copy of the public record; the person shall be advised that they may:

a. Contact the City Manager. If the person is not satisfied with the results they shall be advised that Ohio Revised Code section 149.43 provides a legal means for addressing their complaint in these disputes.

J. Ambiguous or Overly Broad Requests.

1. If a requestor make an ambiguous of overly broad request or has difficulty in making a request for copies or inspection of public records the City or the person responsible for the maintenance of the public records shall provide the requestor with reasonable assistance to facilitate their request.

2. In the event the City receives a public record request that is determined to be overly broad or ambiguous in that it fails to reasonably identify any public records maintained by the City and after reasonable efforts to assist the requestor in gaining access or copies of public records the City may deny the public record request.

3. In the event the City denies access due to an Overly–Broad or Ambiguous request the requestor shall be so notified.

K. Special Exclusions.

1. The City is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication the right to inspect or to obtain

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a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

VI. Personnel and Personal Information.

A. The City Manager, under the authority and direction of the City Council, manages the personnel management function for the City.

B. To better facilitate requests for inspection or information and/or copies of records involving current or past employees of the City inquiries shall be directed to the Administrative Services Department.

1. To better facilitate, manage and administer this process the City has adopted a Schedule of Records Retention and Disposition (RC-2) for Personnel Records and implemented a Personnel Record Management policy that has been approved by the Delaware City Council and the City of Delaware Municipal Records Commission.

2. To the extent practical, current and past employees should be notified in the event that a request has been made to inspect or obtain a copy of their employment related records. Current and past employees shall have the right to be present during the inspection and if they so request, receive a duplicate copy of any record requested at no charge.

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VII. Exempted and/or Restricted Information:

A. In accordance with the Federal Privacy Act, 5 U.S.C., 552a, no public record shall be released which contains a Federal Social Security number. Public records containing Federal Social Security numbers will have that information redacted prior to their release.

B. In the event a request is made to inspect and/or obtain a copy of a record maintained by the City whose release may be prohibited or exempted by either State or Federal Law, the request shall be forwarded to legal counsel for the City for research and/or review. The person submitting the request shall be advised that their request is being reviewed by legal counsel to ensure that protected and/or exempted information is not improperly released by the City.

C. Records, whose release is prohibited or exempted by either State or Federal Law, shall NOT be subject to public inspection. The following represents a partial list of records maintained by the City, that may not be inspected or copied:

1. Confidential Law Enforcement Records.
2. Information pertaining to medical treatment.
3. Trial Preparation Records.
4. Taxpayer Records.
5. Expunged Records.
6. Peace Officer, Firefighter and EMT residential and familial information.

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7. Victim impact statements.
8. Infrastructure and Security Records including Security & Data Codes:
9. Records pertaining to the recreational activities of a person under the age of eighteen.
10. Home addresses of City employees.

D. Peace officer, Firefighter and EMT residential and familial information is exempted from release under the provisions of Revised Code section 149.43(A)(1)(p) except as specifically provided in Revised Code section 149.43(B)(9).

1. According to Revised Code section 149.43 (A) (7), Peace officer, firefighter, or EMT residential and familial information means either of the following:

a. Any information maintained in a personnel record of a peace officer, firefighter, or EMT that discloses any of the following:

- 1) The address of the actual personal residence of a peace officer, firefighter, or EMT, except for the state or political subdivision in which the peace officer, firefighter, or EMT resides;
- 2) Information compiled from referral to or participation in an employee assistance program;
- 3) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer; firefighter, or EMT

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4) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, firefighter, or EMT by the peace officer's, firefighter's, or EMT's employer;

5) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, firefighter's, or EMT's employer from the peace officer's, firefighter's, or EMT's compensation unless the amount of the deduction is required by state or federal law;

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6) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, firefighter, or EMT.

b. Any record that identifies a person's occupation as a peace officer, firefighter, or EMT other than statements required to include the disclosure of that fact under the campaign finance law.

c. Upon written request made and signed by a journalist on or after December 16, 1999, the City shall disclose to the journalist the address of the actual personal residence of the peace officer, firefighter, or EMT. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest. (Section 149.43(B)(7) of the Ohio Revised Code)

E. "Information pertaining to the recreational activities of a person under the age of eighteen" is exempted from release and means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

1. The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;
2. The social security number, birth date, or photographic image of a person under the age of eighteen;

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3. Any medical record, history, or information pertaining to a person under the age of eighteen;

4. Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

F. Infrastructure and Security Records are exempted from release under the provisions of Revised Code section 149.433.

1. "Infrastructure record" means any record that discloses the configuration of a public office's critical systems including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems, security codes, or the infrastructure or structural configuration of the building in which a public office is located. "Infrastructure record" does not mean a simple floor plan that discloses only the spatial relationship of components of a public office or the building in which a public office is located.

2. "Security Record" means either of the following:

a. Any record that contains information directly used for protecting or maintaining the security of a public office against attack, interference, or sabotage;

b. Any record assembled, prepared, or maintained by a public office or public body to prevent, mitigate, or respond to acts of terrorism, including any of the following:

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1) Those portions of records containing specific and unique vulnerability assessments or specific and unique response plans either of which is intended to prevent or mitigate acts of terrorism, and communication codes or deployment plans of law enforcement or emergency response personnel;

2) Specific intelligence information and specific investigative records shared by federal and international law enforcement agencies with state and local law enforcement and public safety agencies;

3) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies, and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism.

G. A record kept by a public office that is a security record or an infrastructure record is not a public record under Revised Code section 149.43 and is not subject to mandatory release or disclosure under that section.

1. Notwithstanding any other section of the Revised Code, a public office's or a public employee's disclosure of a security record or infrastructure record that is necessary for construction, renovation, or remodeling work on any public building or project does not constitute public disclosure for purposes of waiving division (B) of this Section and does not result in that record becoming a public record for purposes of Ohio Revised Code Section 149.43.

H. Information related to/and maintained in accordance with the Americans with Disability Act (ADA), the Family and Medical Leave Act (FMLA) and the Health Information Portability Act (HIPA) requires that qualifying personal medical

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information be kept separate from regular personnel information and maintained in a secured area. Such information may only be released to:

1. Supervisors and managers in order to provide information regarding work restrictions.
2. First aid or safety personnel if the disability would require treatment or procedures related to the disability.
3. Government officials investigating compliance with ADA, FMLA and HIPA provisions.
4. With respect to Bureau of Workers' Compensation second injury funds or in compliance with workers' compensation laws.
5. To insurance companies which require medical exams to provide health or life insurance for the employee.

VIII. Redacting Exempted Records / Procedure:

A. "Redaction" means 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 Ohio Revised Code.

B. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the City or the person responsible for the maintenance of the public record shall make available all of the information within the public record that is not exempt.

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- C. When making that public record available for public inspection or copying that public record, the City or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible.
1. Redactions shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires the City office to make the redaction.
 2. If a request is ultimately denied in part or in whole, the City or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied.
- D. The releasing employee shall then reproduce a copy of the page with the redactions; the resulting copy shall be the page that is released to the requester.
- E. The first reproduction page, with the original redactions made by the employee, is the work sheet. It shall be attached to the original record, and maintained in accordance with the retention period established for the original document.
- IX. American with Disabilities Act (ADA) Compliance.
- A. The City and its employees shall facilitate all requests made by persons, regardless of handicap or disabilities. Employees authorized to release public records shall take all reasonable steps to ensure that no one is denied access to public information based on a handicap or disability.
 - B. The City and its employees shall follow all standards and guidelines established by local, state and federal laws or mandates, as it pertains to the Americans with Disabilities Act and other applicable laws.

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