

**CITY OF OAKWOOD
ADMINISTRATIVE POLICIES AND PROCEDURES**

POLICY NO. 7

SUBJECT: PUBLIC RECORDS

DATE: MAY 14, 2008

REVISED: JANUARY 6, 2020

RECOMMENDED BY:




ROBERT JACQUES, LAW DIRECTOR

CONCURRED BY:



CINDY STAFFORD, FINANCE DIRECTOR

APPROVED BY:



NORBERT S. KLOPSCH, CITY MANAGER

POLICY: This policy is adopted to achieve compliance with R.C. 149.43(E) (1). The city of Oakwood (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 the City 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 (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 – R.C. 149.011(G) and R.C. 149.43(A)(1). The records maintained by the City and the ability to access them are a means to provide trust between the public and the City.

I. Scope

A. 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.

1. Each record custodian shall acknowledge receipt of a copy of the City's public records policy - R.C. 149.43(E) (2).

B. The City's public records policy, as well as the City's Schedules of Records Retention and Disposition (RC-2) are maintained and available at every location in which the public may access the City's records.

- C. The City's public records policy is located in the City's administrative policies and procedures manual. R.C. 149.43 (E)(2)
- D. The City posts the City's public records policy at every location in which the public may access the City's records. R.C. 149.43(E) (2).
- E. The City may, at its own discretion, elect to post the public records policy or a general description thereof on the City's web page. R.C. 149.43(E) (2).

II. Fees

- A. The City, in accordance with Section 149.43 of the Revised Code, has established fees for providing copies or reproductions of public records maintained by the City.
 - 1. The cost for photocopies and for other media of duplication shall be the actual cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copies.
 - 2. For videotapes, 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 copy, to extract electronic data, or to otherwise comply with a public records request.
 - 3. These costs and fees shall be reviewed annually by the Records Commission.
 - 4. Advanced payment of any fees and costs provided for herein is required before copies of any public records will be prepared. R.C. 149.43(B) (6).

III. Availability

A. Inspection

- 1. All public records maintained by the City as well as a copy of the City's current records retention schedules shall be promptly prepared and made available for inspection to any person during regular business hours - R.C. 149.43(B) (1).
 - a. Promptness is to be determined by the facts and circumstances of each public records request. If a request cannot be fulfilled within 1 business day of receipt, a written acknowledgement of receipt and estimated timeline for production should be provided to the requestor, by hand-delivery, mail, or email as appropriate.
 - b. Regular business hours for the City are Monday through Friday (except holidays), from 8:00 a.m. to 5:00 p.m.
- 2. For the purpose of enhancing the ability of the City to identify, provide for prompt inspection, as well as provide copies of the requested items in a reasonable period of time, the City shall provide the attached Public Records Request Form RC100 to all in-person requestors.
 - a. Prompt inspection and copies of records within a reasonable amount of time contemplates the opportunity for legal review.

- b. Although the City may ask the requestor to make the request in writing, may ask the requestor's identity, and may inquire about the intended use of the information requested, prior to asking a requestor to complete a Public Records Request form, the City shall advise the requestor that:
 - i. Completion of the Public Records Request form is not mandatory and the requestor may decline.
 - ii. The requestor's refusal to complete the Public Records Request Form does not impair the requestor's right to inspect and/or receive copies of the public record - R.C. 149.43(B) (5).
 - c. Any person, including corporations, individuals and even governmental agencies may request public records and receive copies within a reasonable amount of time upon request.
3. 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.
 4. Records, whose release is prohibited or exempted by either state or federal law, or which are exempt, excepted, or otherwise not considered public records as defined by R.C. 149.43(A) (1), 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.
 - a. Medical records.
 - b. Uncharged suspect information.
 - c. Confidential law enforcement investigatory records.
 - d. Social Security Numbers of any person.
 - e. Tax information.
 - f. Bureau of Worker's Compensation information.
 - g. LEADS information.
 - h. Pre-sentence investigation report.
 - i. Expunged or sealed records.
 - j. Records the release of which is prohibited by state or federal law.
 - k. Information pertaining to recreational activities of children under 18.
 - l. Residential or familial information pertaining to a peace officer, prosecuting attorney, youth services employee, firefighter, or EMT.

m. Residential addresses of any city personnel.

B. Requests for public records

1. Upon receiving a written or verbal request for copies of a public record made in accordance with Section 149.43 of the Ohio Revised Code the City shall promptly respond to the request. As provided above, if a request cannot be fulfilled within 1 business day of receipt, a written acknowledgement of receipt and estimated timeline for production should be provided to the requestor, by hand-delivery, mail, email, or other means as appropriate.
2. An authorized employee of the City shall, by any means practical, contact the requestor and advise them that advance payment is required prior to providing copies of public records and, in addition, the fee shall also include the cost of postage and the envelope or packaging materials -R.C. 149.43(B) (6) and (7).
3. When practical, the City may forward copied records by any other means reasonably acceptable to the requestor.
 - a. If a person requests a copy of a public record, the City shall permit the requestor to choose to have the public record duplicated on paper or upon the same medium upon which the City maintains the public record or upon any other medium on which the record can reasonably be duplicated as an integral part of the normal operations of the City or the responsible City employee for the public record - R.C. 149.43(B) (6) and (7).
 - b. Persons seeking copies of public records are not permitted to make their own copies of the requested records by any means - R.C. 149.43(B) (6).
4. In accordance with Section 149.43(B)(7) of the Ohio Revised Code, the City limits the number of requested public records to be transmitted through the U.S. mail and/or other delivery service 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.
5. Authorized City employees shall comply with the following procedures upon receiving a valid public records request.
 - a. City employees shall promptly process requests.
 - b. City employees shall log formal public records requests in a spreadsheet maintained for that purpose. For purposes of this requirement, a public records request is formal if it requires something more than *de minimis* administrative time to comply, including time for retrieval, redaction, copying/reproduction, and/or legal review. A request that can be

immediately addressed, or a request to inspect records without copying, shall not be considered a formal request and shall not require logging.

- c. In addition to all other copying and/or reproduction fees, requestors shall be charged the postage fees and the cost of the envelope required to properly send the requested records through the mail. R.C. 149.43(B) (7).
- d. Employees responding to public records requests must have the response reviewed by the Records Custodian for their city department/division or the Law Director prior to making the response. The only exception to this requirement is in situations involving common, routine, or repetitive requests where the Records Custodian has authorized an employee to respond without Custodian oversight.

C. Requests for inspection and/or copies of public records which are not maintained by the City shall be processed in the following manner.

1. 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 that one of the following applies:
 - a. Their request involves records that have never been maintained by the City.
 - b. Their request involves records that are no longer maintained or have been disposed of or transferred pursuant to applicable City Schedules of Record Retention and Disposition - RC-2.
 - c. Their request involves a record that has been disposed of pursuant to an Application of One Time Records Disposal - RC- 1.
 - d. If the record that is requested is not a record used or maintained by the City, the requestor shall be notified that in accordance with Ohio Revised Code Section 149.40, the City is under no obligation to create records to meet public record requests.

D. Ambiguous or overly broad request for public records, or records requested in a manner that does not comport with the system used to index such records, shall be processed in the following manner.

1. The City shall inform the requestor of the manner in which records are maintained and accessed by the City in the ordinary course of business.
2. The City shall provide the requestor with an opportunity to revise the request by informing the requestor of the manner in which records are kept - R.C. 149.43(B) (2).
3. If the requester fails to revise the request, the City may deny the request.

E. Denial of a record maintained by the City.

1. The City may deny a request for a record maintained by the City if:

- a. The record that is requested is prohibited from release due to applicable state or federal law. R.C. 149.43(A) (l) (v).
 - b. The record that is requested falls within any other applicable exemption or exception under the Ohio Public Records Act. R.C. 149.43.
2. Employees of the City shall consult the Law Director before denying or withholding any record from disclosure.
 - a. If warranted, employees may inform the requestor that they are simply applying the statutory exclusion, otherwise, legal counsel will respond with the legal authority for a denial. A list of common statutory exclusions is attached within the Appendix for this policy.
 3. As governed by R.C. 149.43(B)(3), if a request is ultimately denied, in part or in whole, the City shall provide the requestor with an explanation, including legal authority, setting forth why the request was denied.
 - a. If the initial request was provided in writing, then the explanation shall also be provided in writing. This should be accomplished using the list of common statutory exclusions found in the Appendix for this policy or by requesting a denial letter from the Law Director. (If a denial letter is requested, the Law Director shall exercise professional judgment and discretion to decide whether to direct the responding employee to use the list instead of a letter.)
 - b. The explanation shall not preclude the City from relying upon additional reasons or legal authority in defending an action commenced pursuant to R.C. 149.43.

F. Redacting exempted records/procedure

1. "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 "record" in Section 149.011 of the Ohio Revised Code - R.C. 149.43(A) (l).
 - a. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction - R.C. 149.43(B) (l). In other words, redaction is a form of denial, and the responding employee shall involve the Law Director in the same manner described above for denial of records.
 - b. If a request is ultimately redacted, in part or in whole, the City shall provide the requestor with an explanation, including legal authority, setting forth why the redaction(s) was/were made - R.C. 149.43(B)(3).
2. If a public record contains certain information that is exempt from the duty to permit public inspection or to copy the public record, the City shall make available all of the information within the public record that is not exempt. (The only exception to this provision is where the exempt information is so intertwined with non-exempt information that redaction is not reasonably feasible, which is a determination that must be made by the Law Director.)

3. When making that public record available for public inspection or copying that public record, the City shall notify the requestor of any redaction or make the redaction plainly visible - R.C. 149.43(8)(1).
4. 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. There shall be no charge for any "work sheets" created.
5. 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 requestor.

G. 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 and/or Law Director.
 - b. If the person is not satisfied after contacting the City Manager and/or Law Director, they shall be advised that Ohio Revised Code Section 149.43 provides a legal means for addressing their complaint in these disputes - R.C. 149.43(C).

H. Training and Education

1. The City continues to update and address all education, training, disclosure and policy requirements mandated by R.C. 109.43 and R.C. 149.43(E) (1) and (2).



**City of Oakwood
Ohio Public Records Request
Form RC 100**

The Oakwood, Ohio government belongs to the citizens of Oakwood. We conduct our government activities in the open, and we are proud of our strong commitment to this important principle of democracy.

While not mandatory, if you fill out this form it will assist us in providing the public records you are requesting.

Date of Request: _____

Name of Requester: _____

Street Address: _____

City, State, Zip: _____

With as much specificity as possible, please describe what records you are requesting or want to review:

The city of Oakwood provides photocopies of public records based on our current fee schedule. Mailing charges are assessed at actual cost. There is no charge to inspect records while in the city of Oakwood buildings. Please check your preference below:

- I would like to inspect these records in the building when they are ready.
- I would like these records copied and I will pick them up when they are ready.
- I would like these records copied and mailed to me at the address on this form.

Name of city of Oakwood Employee handling request: _____

Date request released: _____ Copy Retained: _____

Method (Paper / Electronic): _____

Cost (Payment due at time public records request are received):

Number of paper copies requested:

_____ @ \$ _____ per page

Postage and handling \$ _____

Copies of other materials (video tape, cassette, etc.):

\$ _____

\$ _____

Postage and handling \$ _____

Total Fee \$ _____

Receipt number: _____

Record(s) not available:

- Record has never been maintained by the City.
- Record is no longer maintained or has been disposed of or transferred pursuant to RC-2.
- Record has been disposed pursuant to an application of One-Time Records Disposal (RC-1).
- Record is prohibited from release due to an applicable state or federal law.

State the applicable state or federal law: _____

Record provided is not in the form of a paper document:

- Cassette tape Video tape Other (specify) _____

Record has been forwarded to legal counsel for research / review:

- Record has been reviewed and release has been denied by legal counsel.
- Record has been reviewed by legal counsel and record(s) are to be released.

Record has been reviewed and contained non-releasable material:

- Upon review, non-releasable material has been redacted.
 - Releasing employee has noted the date, initials, and name of the requestor on a copy of the reproduced public record.
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REASON FOR REDACTION

1. Medical records generated in the course of treatment. Ohio Rev. Code § 149.43(A)(1)(a).
2. Home addresses of public employees. *State ex rel. Dispatch Printing Co. v. Johnson*, 106 Ohio St. 3d 160 (2005).
3. Social Security numbers. 5 U.S.C. § 552a; Ohio Rev. Code § 149.43(A)(1)(v); *State ex rel. Beacon Journal Publishing Co. v. Akron*, 70 Ohio St. 3d 605 (1994).
4. Charitable deductions and employment benefit deductions such as health insurance (as non-records). *State ex rel. McCleary v. Roberts*. 88 Ohio St. 3d 365, 367 (2005); *State ex rel. Fant v. Enright*, 66 Ohio St. 3d 186, 188 (1993) .
5. Trial preparation records. Ohio Rev. Code § 149.43(A)(1)(g).
6. Confidential law enforcement investigatory records. Ohio Rev. Code § 149.43(A)(1)(h).
7. Security and infrastructure records. Ohio Rev. Code § 149.433.
8. Intellectual property records. Ohio Rev. Code § 149.43(A)(1)(m).
9. DNA records stored in the state DNA database. Ohio Rev. Code § 149.43(A)(1)(j).
10. Information pertaining to the recreational activities of a person under the age of eighteen. Ohio Rev. Code § 149.43(A)(1)(r).
11. Criminal background and other law enforcement information from the LEADS database. 42 U.S.C. § 3789g; Ohio Rev. Code § 149.43(A)(1)(v); *State ex rel. Master v. Cleveland*, 76 Ohio St. 3d 340 (1996).
12. Records that do not document the organization, functions, policies, decisions, procedures, operations, or other activities of the City. *State ex rel. Wilson-Simmons v. Lake Cty. Sheriff's Dept.*, 82 Ohio St. 3d 37 (1998).
13. Attorney-client privileged information. *State ex rel. Dawson v. Bloom-Carroll Loc. Sch. Dist.*, 131 Ohio St.3d 10, 2011-Ohio-6009, 959 N.E.2d 524; *State ex rel. Anderson v. Vermilion*, 134 Ohio St.3d 120, 124, 2012-Ohio-5320, 980 N.E.2d 975, 979, ¶ 15.
14. Information related to and maintained in accordance with the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and the Health Information Portability and Accountability Act (HIPAA). 29 CFR 825.500(g); 29 CFR 1630.14(c)(1); Ohio Rev. Code § 149.43(A)(1)(v).
15. Records made by a public accountant in the course of an audit of the City (except reports submitted by the accountant to the City). Ohio Rev. Code § 149.43(A)(1)(v); Ohio Rev. Code § 4701.19(B).
16. Employee Assistance Program (EAP) Records. Ohio Rev. Code § 3701.041(B).
17. Records sealed pursuant to court order. Ohio Rev. Code § 149.43(A)(1)(v); Ohio Rev. Code § 2953.52.
18. Other records the release of which is prohibited by state or federal law. Ohio Rev. Code § 149.43(A)(1)(v).
19. Other. Explanation and authority: _____
