

CLAYTON, OHIO PUBLIC RECORDS POLICY

I. PURPOSE

The City of Clayton 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 of Clayton's Records Commission, the City has adopted a Records Retention Schedule that identifies these records. This Schedule identifies 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); 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.

II. SCOPE

- A. The custodian of records for the City is the Office Manager. The custodian's office is located in the City's Government Center Building at 6996 Taywood Road, Englewood, Ohio 45322.
 - 1. The records custodian has a copy of the City's public records policy. (R.C. 149.43(E) (2)).
- B. The City's public record policy, as well as the City's Records Retention Schedule are located 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 policies and procedures manual.
- D. The City displays a poster which generally describes the City's public records policy at every location in which the public may access the City's records.

III. FEES

- A. The City, in accordance with Section 149.43 of the Revised Code, has established the following 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 \$.05 (five cents) per photocopy calculated from the first photocopy. Advance payment is required before any copies are prepared. Two sided photocopies shall be charged at a rate of \$.05 (five cents) per sheet.

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.
3. Established costs/fees under this policy shall: be clearly posted and visible to the public at all locations authorized to provide copies of public records.

IV. AVAILABILITY

Inspection

- A. All public records maintained by the City shall be promptly prepared and made available for inspection to any person during regular business hours as well as a copy of the City's current records retention schedule(s). (R.C. 149.43(B) (1)). (Promptness is to be determined by the facts and circumstances of each public records request). Regular business hours for the City are Monday through Friday (except holidays), from 7:30 A.M. to 4:30 P.M.
- B. 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 to the requester Form C 100 for the requester to complete.
 1. Prompt inspection and copies of records within a reasonable amount of time contemplates the opportunity for legal review.
 2. Although the City may ask the requester to make the request in writing, for the requester's identity, and may inquire about the intended use of the information requested, the requester shall be advised that:
 - a. The requests are not mandatory; and
 - b. The requester's refusal to complete Form C 100 does not impair the requester's right to inspect and/or receive copies of the public record. (R.C. 149.43(B) (5)).
 3. Any person, including corporations, individuals, and even governmental agencies, may request public records, and will be allowed prompt inspection of public records and copies within a reasonable amount of time upon request.
- C. 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.

- D. Records, whose release is prohibited or exempted by either state or federal law, or 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:
1. Medical records;
 2. Trial preparation records;
 3. Confidential law enforcement investigatory records;
 4. Intellectual property records;
 5. Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter or EMT residential and familial information;
 6. Records the release of which is prohibited by state or federal law.

Public Records Requests

A. Mailed Requests for Public Records:

1. Upon receiving a written request for copies of a public record made in accordance with section 149.43 of the Ohio Revised Code via the United States Postal Service, the City shall promptly respond to the request.
2. An authorized employee of the City shall, by any means practical, contact the requester 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. (R.C. 149.43(B) (7)).
3. When practical, the City may forward copied records by any other means reasonably acceptable to the requester.
 - a. If a person requests a copy of a public record, the City shall permit the requester 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) (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, to a maximum of ten records per month, unless the requester 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, reporter 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 record request through the United States Postal System:
 - a. City employees shall promptly process requests.
 - b. Requesters shall be charged the postage fees and the cost of the envelope required to properly send the requested records through the mail.
- B. Written or verbal requests for copies made by the public records requester or their designee shall be processed in the same manner as mailed requests.

Response and Denials

- A. 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 requester shall be so notified in writing utilizing Form C 101 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 the City’s Records Retention Schedule;

- c. If the record that is requested 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.

B. Ambiguous or Overly Broad Request for Public Records

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 City employee responsible for the requested public record cannot reasonably identify what public records are being requested:

1. The City may deny the request.
2. However, the City 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 City in the ordinary course of business. (R.C. 149.43 (B) (2)).

C. Denial of a Record Maintained by the City

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

1. The record that is requested is prohibited from release due to applicable state or federal law.
 - a. Employees of the City shall consult legal counsel if they are unsure of whether the record requested should be withheld from disclosure.
 - i. Employees may check the appropriate box on Form C 101 if they are simply applying the statutory exclusion.
 - ii. Otherwise, legal counsel will respond with the legal authority for a denial.
2. 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 requester 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.

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.

D. 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 a “record” in section 149.011 of the Ohio Revised Code (R.C. 149.43 (A) (11));
 - 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) (1)).
 - b. If a request is ultimately denied, in part or in whole, the City shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. (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 the information within the public record that is not exempt.
3. When making that public record available for public inspection or copying that public record, the City shall notify the requester of any redaction or make the redaction plainly visible. (R.C. 149.43(B) (1)).
4. 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.
5. 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.

Remedy

A. 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.
 - b. If the person is not satisfied after contacting the City Manager they shall be advised that Ohio Revised Code section 149.43 provides the legal means for addressing their complaint in these disputes. (R.C. 149.43 (C) (1) (2)).

V. Training and Education

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) (2).