

CITY OF LOUISVILLE
215 South Mill Street
Louisville, Ohio 44641
RECORD MANAGEMENT POLICY

CITY OF LOUISVILLE

Effective: July 27, 2009

Chapter 1
General Administration
Policy 1-12

RECORDS MANAGEMENT POLICY

I. Purpose:

The City of Louisville, 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 the City of Louisville 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.

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, 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 Revised Code. For definition of what a "Public record" does not mean please refer to ADDENDUM A.

C. Definitions 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 of 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 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.
3. (RE: ORC 149) "Personal Information" means any of the following:
 - a. An individual's social security number;
 - b. An individual's federal tax identification number;
 - c. An individual's driver's license number or state identification number;
 - d. An individual's checking account number, savings account number, or credit card number.

IV 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 there shall be no fee for copies under \$1.00. For request for photocopies that exceed 24 pages the fees shall be five (5) cents per photocopy calculated from the first photocopy. Advance payment is required for all requests that exceed 24 pages before any copies are prepared. Two sided photocopies shall be charged at a rate of seven (7) 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. If the City creates the copy, a reproduction fee may not be charged.
3. Bulk Commercial Requests and Special Extraction Costs will follow Ohio Revised Code Section 149.43 (E) (2) (b).
4. 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.

B. Cost and fees established under this policy represent the actual cost. The *actual cost* means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

V. Availability:

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). 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.

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 the Public Records Officer (City Clerk).

D. The regular business hours for the offices, departments and functions for City are 8:30 am to 5:00pm, Monday through Friday except holidays.

E. Each Office, Department and / or function has designated an employee within every department, office or function under their direction to act as the custodian of records for their assigned unit.

F. 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 respond to the request in a timely manner.

a. 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 via the United States Mail System, and in addition, the fee shall also include the cost of postage and the envelop.

b. When practical, the City may forward copied records by any other means reasonably acceptable to the requestor.

2. In accordance with section 149.43(B) (7) of the Ohio Revised Code, the City limits the number of public record requests submitted via the U.S. Postal Service, to be transmitted through the U. S. Mail, 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. City employees shall process requests in a timely manner.

b. Requestors shall be charged the postage fees and the cost of the envelope required to properly send the requested records through the mail.

G. Requests for inspection and/or copies of public records, which are not maintained or are prohibited from release pursuant to applicable state or federal law, 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 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 are 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 record that is requested is prohibited from release due to applicable state or federal law the responsible City employee shall complete City Form RC101 and mark the appropriate box indicating the applicable state or federal law.

e. If the record that is requested is not a record used or maintained by the City an authorized employee of the City shall complete City Form 101 notifying the requestor 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. Ambiguous or Overly Broad Request for Public Records

1. If a requestor makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under section 149.43 of the Ohio Revised Code such that the public office or the City employee responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or City employee responsible for the requested public record may deny the request, but shall provide the requestor with an opportunity to revise the request by informing the requestor of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or City employees duties.

I. Denial

1. If a request is ultimately denied, in part or whole, the responsible City employee shall provide the requestor with an explanation, including legal authority, setting forth why the request was denied.

2. If the initial request was provided in writing then the explanation shall also be provided in writing;

3. The explanation shall not preclude the City from relying upon additional reasons or legal authority in defending an action commenced under law.

4. The City is not required to permit a person that is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record 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 obtain a 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.

J. Written Requests for Public Records

1. For the purpose of enhancing the ability of the City to identify, locate or deliver the public record(s) sought by the requestor, the City shall provide to the requestor City Form RC100 for the requestor to complete.

2. Although the City requests the requestor to make the request in writing, ask for the requestor's identity, and may inquire about the intended use of the information requested, the requestor shall be advised that a written request is not mandatory, and that the requestor may decline to reveal his identity or the public records intended use.

3. The requestor's refusal to complete City Form RC100 does not impair the requestor right to inspect and/or receive copies of the public record.

K. Media Types/Distribution of Records

1. 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 public office, or the responsible City employee for the public record. 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.

2. Persons seeking copies of public records are not permitted to make their own copies or utilize their copying or reproduction equipment.

L. 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 Office of the City Attorney. 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.

VI. Personnel and Personal Information.

A. The City Clerk or designee manage 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 Human Resources 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 City.

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.

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 may 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, EMT, Parole Officer, Prosecuting Attorney, Assistant Prosecuting Attorney, Correctional Employee, and Youth Services Employee's residential and familial information.
7. Victim impact statements.
8. Infrastructure and Security Records including Security & Data Codes:
Records pertaining to the recreational activities of a person under the age of eighteen.

D. Residential and familial information is exempted from release under the provisions of Ohio Revised Code section 149.43(A)(1)(p) except as specifically provided in Revised Code section 149.43(B)(9).

1. In accordance with Ohio Revised Code section 149.43 (A)(7), the following employee classifications: Peace officer, firefighter, EMT, Prosecuting Attorney, or Assistant Prosecuting Attorney residential and familial information means the following:

a. Any of specified employee's information maintained that discloses any of the following:

- 1) The address of the actual personal residence except for the state or political subdivision in which specified employees reside;
- 2) Information compiled from referral to or participation in an employee assistance program of specified employee;
- 3) The social security number, the telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information that pertains to the specified employees;
- 4) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to the specified employees;
- 5) The identity and amount of any charitable or employment benefit deduction made by the specified employees unless the amount of the deduction is required by state or federal law;
- 6) The name, the residential address, the name of the employer, the address of the employer, the social security number, the 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 the specified employees.

b. Any record that identifies a person's occupation of the specified employees other than statements required to include the disclosure of that fact under the campaign finance law.

2. Upon written request made and signed by a journalist, on or after December 16, 1999, the City employee responsible for the public record, having custody of the records shall disclose to the journalist the address of the actual personal residence of specified employee, if available and if specified employee's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the specified employee. The request shall include the journalist's name and title and the name and the address of the journalist's employer and shall state the disclosure of the information sought would be in the public interest.

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;
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 Ohio Revised Code section 149.433.

1. "Infrastructure record" means any record that discloses the configuration of a public office's or municipality'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:
 - 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 Ohio Revised Code section 149.43 and is not subject to mandatory release or disclosure under that section.

- 1. Notwithstanding any other section of the Ohio 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 Insurance Portability and Accountability Act (HIPAA) requires that qualifying personal medical 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 HIPAA 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 certain information that is exempt from the duty to permit public inspection or to copy the public record, the responsible City employee for the public record shall make available all of the information within the public record that is not exempt.
- C. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible.
- D. 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.
- E. If a request is ultimately denied in part or in whole, the public office 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.
- F. 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.
- G. 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. Americans 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.

X. Training and Education

A. In accordance with section 149.43 (E)(1) the City provides continuing education reference the City's obligations pursuant to Chapter 149 of the Ohio Revised Code and all other appropriate local, state, and federal laws.

ADDENDUM A

- "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;
 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, EMT, Prosecuting Attorney, or Assistant Prosecuting Attorney residential and familial information;
 17. In the case of a City 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;
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.