

**PUBLIC RECORDS POLICY**  
**CITY OF SIDNEY, OHIO**  
**October 1, 2007**

**I. Purpose:**

The City of Sidney, Ohio (hereinafter, "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 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 documents 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. Each office, department or function that maintains records has designated employees who serve as custodians of all records maintained by the office, department or function.
  - 1. Each record 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 Schedules of Records Retention and Disposition 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 5¢ per photocopy calculated from the first photocopy. Advance payment is required before any copies are prepared.
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 8:00 a.m. to 5:00 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 requestor Form 100 for the requestor 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 requestor to make the request in writing, may ask for the requestor's identity, and may inquire about the intended use of the information requested, the requestor shall be advised that:
    - a. The requests are not mandatory; and
    - b. The requestor's refusal to complete Form 100 does not impair the requestor'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 other 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. Attached to this Policy is Exhibit "A" which is a partial list of records, that may not be inspected or copied per R. C. 149.43(A)(1).

#### **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 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. (R.C. 149.43(B)(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)(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 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 record request through the United States Postal System.
    - a. City employees shall promptly process requests.
    - b. Requestors 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 requestor 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 the City does not maintain or the request is for a record which is no longer maintained, the requestor shall be so notified in writing utilizing Form 101 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 have

been disposed of or transferred pursuant to applicable City Schedules of Record Retention and disposition; or

- c. Their request involves a record that has been disposed of pursuant to an Application of the One-Time Records Disposal; or
- 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, 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 requestor 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 requestor with an opportunity to revise the request by informing the requestor of the manner in which records are maintained by the City in the ordinary course of business. (R.C. 149.43(13)(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 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 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.
  - 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 requestor 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 requestor 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 requestor.
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's office.
  - b. If the person is not satisfied after contacting the City's senior representative, 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)(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). The City Clerk is designated as the responsible party to attend all necessary training and is the responsible party to educate and train employees regarding the Public Records Policy mandates.

## EXHIBIT "A"

### 149.43. Availability of public records.

(A) As used in this section:

(1) "Public record" means 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 this state kept by the nonprofit or for profit entity operating the alternative school pursuant to **section 3313.533** [3313.53.3] of the Revised Code. "Public record" does not mean any of the following:

- (a) Medical records;
- (b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;
- (c) Records pertaining to actions under section 2151.85 and division (C) of **section 2919.121** [2919.12.1] of the Revised Code and to appeals of actions arising under those sections;
- (d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under **section 3705.12** of the Revised Code;
- (e) Information in a record contained in the putative father registry established by **section 3107.062** [3107.06.2] of the 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 Revised Code, the office of child support in the department or a child support enforcement agency;
- (f) Records listed in division (A) of **section 3107.42** of the Revised Code or specified in division (A) of **section 3107.52** of the Revised Code;
- (g) Trial preparation records;
- (h) Confidential law enforcement investigatory records;
- (i) Records containing information that is confidential under **section 2710.03** or **4112.05** of the Revised Code;
- (j) DNA records stored in the DNA database pursuant to **section 109.573** [109.57.3] of the Revised Code;
- (k) 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 Revised Code;
- (l) 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 Revised Code;
- (m) Intellectual property records;
- (n) Donor profile records;
- (o) Records maintained by the department of job and family services pursuant to **section 3121.894** [3121.89.4] of the Revised Code;
- (p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information;
- (q) In the case of a county hospital operated pursuant to **Chapter 339.** of the Revised Code or a municipal hospital operated pursuant to **Chapter 749.** of the Revised Code,

information that constitutes a trade secret, as defined in **section 1333.61** of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) 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** [307.62.1] to **307.629** [307.62.9] of the Revised Code, other than the report prepared pursuant to **section 307.626** [307.62.6] of the Revised Code;

(t) 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** [5153.17.1] of the Revised Code other than the information released under that section;

(u) 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 Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) 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 Revised Code;

(x) Information reported and evaluations conducted pursuant to **section 3701.072** [3701.07.2] of the Revised Code.

(y) 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 from the agency.



# City of Sidney, Ohio

## Public Records Request

### Form RC 101

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

**Persons requesting copies will be required to pay a fee of five cents per copy. Prepayment is required.**

Name of Requestor - See RC 100	
Number of copies requested _____ @ \$.05 per page	Total fee: \$ _____.
Copies of other materials (video tape, cassette, etc)	Total fee: \$ _____.
Receipt number _____	Total fee: \$ _____.
<p><b>Record(s) not available:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Record has never been maintained by the City.</li> <li><input type="checkbox"/> Record is no longer maintained or has been disposed of or transferred pursuant to RC-2.</li> <li><input type="checkbox"/> Record has been disposed pursuant to an application of One-Time Records Disposal RC-1.</li> <li><input type="checkbox"/> Record is prohibited from release due to an applicable state or federal law.                  (State the applicable state or federal law) _____</li> </ul> <p><b>Record provided <u>is not</u> in the form of a paper document</b></p> <p><input type="checkbox"/> Cassette tape    <input type="checkbox"/> Video tape    <input type="checkbox"/> Other (specify) _____</p> <p><b>Record is prohibited or exempted by law:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Record has been forwarded to legal counsel for research/review.</li> <li><input type="checkbox"/> Record has been reviewed and release has been denied by legal counsel</li> <li><input type="checkbox"/> Record has been reviewed by legal counsel and records are to be released.</li> </ul> <p><b>Record has been reviewed and contained non-releasable material.</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Upon review, non-releasable material has been redacted.</li> <li><input type="checkbox"/> Releasing employee has noted the date, initials, and name of the requestor on a copy of the reproduced page.</li> </ul>	
Name of Sidney employee handling request	Date request was completed