

# **CITY OF BLUE ASH**

## **PUBLIC RECORDS POLICY**

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#### **I. Policy**

It is the policy of the City of Blue Ash to make all public records available for public inspection by any person at reasonable times in accordance with ORC 149.43 (B)(1). All records of the City of Blue Ash are public unless they are exempt from disclosure under the Ohio Revised Code. No provision in this policy shall conflict with the ORC as it relates to public records.

#### **II. Purpose**

The primary purpose of this policy is to set forth a general procedure for providing City-wide, consistent, prompt, and equitable service to citizens requesting access to public records. The Ohio Revised Code sets forth categories of records to which the official custodian of records shall allow public access and categories of records to which the official custodian shall deny access.

The secondary purpose of this policy is to establish reasonable and consistent fees for providing copies as authorized by the Ohio Revised Code.

#### **III. Definitions**

“Records,” as defined by ORC 149.011 (G), includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in ORC 1306.01, created or received by or coming under the jurisdiction of the state or its

political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

“Public Record” as defined by ORC 149.43 (A) 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 ORC 3313.533. ORC 149.43(A) expressly excludes certain categories of records from the definition of “public record.” See ORC 149.43 (A)(1)(a)-(y).

#### IV. Scope

This policy shall apply to all City public records and copies of information requested or released with the exception of records exempted from the definition of “public record” under ORC 149.43 (A).

#### V. Procedures

The Public Information Officer is the official Public Records Custodian of all records which are centrally maintained by the City. Department Directors or their specific designees are the official Public Records Custodians of all records maintained within their departments. The Technology Officer is the official Public Records Custodian of e-mails. It is the responsibility of each Department Director to become familiar with and to educate his/her affected employees about the standards and requirements of this policy.

Public records requests will be accommodated during regular business hours between 8:00 a.m. and 5:00 p.m. local time on regular business days. Public records requests will not be accepted on weekends, holidays, or outside regular business hours.

A public records request may be made in writing or verbally. The Public Records Custodian may ask the requester to put a verbal request in writing, or for the requester to give identifying information, but neither a written request nor identifying information are required. However, such would benefit the requester by enhancing the ability of the Public Records Custodian to identify, locate, and deliver the public records requested.

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, locate, retrieve, and review the records. If it is not clear to the records custodian what records are being sought, the records custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Public records can be accessed by one of the following methods: a request to view public records in person; a request for copies of public records that the requester will personally pick up from the Public Records Custodian; or a request for copies of public records that the requester wants to have mailed or otherwise delivered to the requester.

Request to view public records. The requester may make a request to view public records to the Public Records Custodian, who shall prepare the public records for inspection “promptly,” as required by the Ohio Revised Code. The actual time required to comply with the request may depend upon the volume of records requested, the proximity of the location where the records are stored, and the necessity for any legal review of the records requested.

Copies of public records. The requester may make a request to have copies of public records made to the Public Records Custodian. All copies will be made at cost. The cost of copies may be adjusted periodically as costs change. Copies made on 8 ½” x 11” or legal size paper are \$0.05 per black and white, single-sided copy. Color copies requested on 8 ½” x 11” or legal size paper cost \$0.10 per single-sided copy. All copy charges must be paid in advance before copies are made. If the Public Records Custodian uses an outside copying service to make the copies (see the following paragraph), the requester will be required to pay the cost of the entire copying job, as billed by the copying service. Copies that are requested in some format other than paper will be “at cost,” without taking into account employee time spent preparing the copies. For example, public records in electronic format placed on a CD will be assessed the cost of the CD, plus the cost, if any, of creating the electronic copies.

Public records will be copied only by the Public Records Custodian or other authorized officers, employees, or representatives. The Public Records Custodian may use an outside copying service to make the copies, at the Public Records Custodian’s discretion. Only at the discretion of the Public Records Custodian will the requester be permitted to make the copies himself or herself at the public office. Under no circumstance will the requester be permitted to make the copies himself or herself at a location other than the public office. The manner of the making of copies is at the discretion of the Public Records Custodian. Requests to copy a certain number of public records on a given page, by “reducing” copy size or otherwise, may be met at the discretion of the Public Records Custodian.

Copies will be made available by the Public Records Custodian “within a reasonable time,” as required by the Ohio Revised Code. The time for compliance will depend upon the availability of records and the volume of records requested.

Transmitting copies of public records. A requester may request that copies of public records be transmitted to him/her by U.S. Mail or by any other means of transmission that is available and is conducive to transmitting the public records, such as FedEx, UPS, fax, or e-mail. The cost of transmitting must be paid by the requester before the public records will be transmitted. There is no charge for documents which are e-mailed. While the City is under no obligation to provide records in electronic format, it is the policy of the City to provide information to the public in the most convenient way that is practical, considering all of the circumstances. Therefore, if the City receives a request for information to be made available in an electronic format, such request will be forwarded

to the Public Records Custodian for a determination as to whether such information will be generated and released in an electronic format.

Copies will be transmitted to the requester by the Public Records Custodian “within a reasonable time,” as required by the Ohio Revised Code. The time for compliance will depend upon the availability of records and the volume of records requested.

#### VI. Payment

Charges for copies or for transmission of copies (e.g., via fax, U.S. Mail, Fed Ex, UPS, etc.) can be paid for in cash or by check/money order/certified check, made payable to City of Blue Ash. If payment is made by check, copies will not be made until the check has cleared and been paid by the requester’s bank. All charges must be paid in their entirety, in advance. A requester may pay an amount that the Public Records Custodian estimates to cover the cost of copies or means of transmission. If that amount is determined to be insufficient, the copies will not be made or transmitted until the entire amount due is paid. If the amount was in excess of the cost of the copies or means of transmission, the excess will be repaid to the requester. The Public Records Custodian has the authority to waive such fees and charges.

#### VII. Email

Documents in electronic mail format are records as defined by the Ohio Revised Code when their content meets the definition of non-exempt public records. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

Those records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the City of Blue Ash are instructed to retain their e-mails that relate to public business and to copy them to their business e-mail accounts and/or to the City’s Technology Officer as the official Public Records Custodian of e-mails.

The Public Records Custodian is to treat the e-mails from private accounts as records of the City of Blue Ash, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Ohio Revised Code.

#### VIII. Denial of a Public Records Request

Under certain circumstances, records are not defined as “public records” under Ohio law. In these situations, the public records request will be denied on that basis. The Ohio Revised Code requires that any denial be supported by legal authority. A denial that is responding to a written public records request will also be given in writing. Written reasons for denial will not be required for non-written public records requests.

The Ohio Revised Code regards certain actions as being “denials” of public record requests. These situations are addressed in the following paragraphs.

Redaction. The Ohio Revised Code defines a “redaction” as “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 Revised Code.” Examples of redaction are “blacking out” or “whiting out” or “cutting out” portions of a document.

When a public record contains information that is not within the definition of a “public record” as defined by law, the Public Records Custodian will make available that portion of the public record that does meet the definition of a “public record.” The Public Records Custodian shall make a copy of the public record, perform the redaction, then make a copy of that sheet and make the second copy available to the requester. The requester will not be charged for the first copy made. The first copy will be retained by the Public Records Custodian. Each redaction must be accompanied by a supporting explanation, including legal authority. If the record request was made in writing, then the explanation of redaction will be in writing.

Requests that are ambiguous, overly broad, or difficult to identify the public records requested. At times, a requester may make a public records request from which the Public Records Custodian cannot determine what public records the requester is seeking. In such circumstances, the Public Records Custodian will inform the requester that the public records request is denied but will give the requester an opportunity to more accurately describe the public records sought. If the requester is seeking public records organized in a certain way, but the public records are not organized in that way, the Public Records Custodian will inform the requester of the manner that the public records of the office under discussion are maintained and accessed. The requester may then submit a public records request that more accurately reflects the organization of the public records and the actual public records sought by the requester.

#### IX. Compliance

With any public records request, the Public Records Custodian reserves the right to consult with legal counsel prior to the release of such public records. This is to allow the City of Blue Ash to comply with laws prohibiting the release of certain records.

#### X. Exceptions/Change

This policy supersedes all previous policies covering the same or similar topics. Exceptions to this policy may be granted only by the Public Records Custodian. This policy may be reviewed and changed at any time by the City Manager.

XI. Questions/Contact Point

Questions regarding the policies, procedures, and requirements set forth herein may be directed to the Assistant to the City Manager.

Effective Date: 2/22/08

Approved and Directed By:

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David M. Waltz  
City Manager

I have read, or have had read to me, the Public Records Policy. I have been given a copy of the Public Records Policy for my own records and have been given the opportunity to ask questions regarding the Public Records Policy.

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Employee's Printed Name

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Employee's Signature

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Date