

**PUBLIC RECORDS POLICY  
OF  
MIAMICOUNTY  
RECORDERS' OFFICE**

**I. Purpose:**

Miami County, hereinafter referred to as the "Subdivision" acknowledges that it maintains many records that are used in the administration and operation of the Subdivision. In accordance with state law, and the determinations of the Records Commission of the Subdivision, the Subdivision 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, audio and visual tape, etc.) that are created received, and/or sent under the jurisdiction of the Subdivision, and document the organization, functions, policies, decisions, procedures, operations, or other activities of the Subdivision. (Ohio Revised Code Sections 149.011[G]; and 149.43[A]pl]) The records maintained by the Subdivision and the provision of access to the same are means to engender trust among the public in the Subdivision.

**II. Scope.**

A. Each office, department, or function of the Subdivision which maintains public records has an employee who has been designated as the custodian of all public records maintained by the particular office, department, or function.

B. Each record custodian so designated has a copy of the public records policy of the Subdivision, as well as a copy of a listing of relevant exceptions to and prohibitions against the requirements of public disclosure. (Ohio Revised Code Section 149.43[E][2])

C. The public records policy of the Subdivision, and the Subdivision's Schedules of Records Retention and Disposition which are relevant to the particular office, department, or function are available at every location at which the public may access public records of the Subdivision;

D. The public records policy of the Subdivision is located in the policies and procedures manual of the Subdivision;

E. At every location at which the public may access the public records of the Subdivision, the Subdivision displays a poster which describes generally the public records policy of the Subdivision.

**III. Fees.**

A. The Subdivision, in accordance with Section 149.43 of the Ohio Revised Code, has established the following fees for the provision of copies or reproductions of public records maintained by the Subdivision which are subject to provision and release:

1. For photocopies of either letter or legal-size documents made *without* the assistance of Recorder's Office Staff, the fees shall be the actual cost per photocopy which has been calculated at five cents \$.05 per page calculated from the first photocopy. Advance payment is required before any copies are prepared. Two sided photocopies shall be charged at the actual cost per item which has been calculated at ten cents \$.10 per item;
2. For photocopies of either letter or legal-size documents made *with* the assistance of Recorder's Office Staff, the fees shall be calculated at \$2.00 per page, in accordance with Ohio Revised Code, Section 317.32. Please add \$1.00 for certifications.
3. For video tapes, audio tapes, cassette tapes, or for any other type of media, the fee shall be the replacement or the actual cost of reproducing or copying the same. Reproduction costs may be charged only if a commercial or professional service is contracted to provide the copy.
4. Established costs under this Policy shall be clearly posted and visible to the public at all locations in which access to public records is afforded to the public.

#### **IV. Availability:**

A. All public records maintained by the Subdivision shall be prepared and made available promptly for inspection to any person during regular business hours, as will a copy of the current Public Records Policy of the Subdivision and copies of the current Retention Schedules of the Subdivision. (Ohio Revised Code Section 149.43[B][I]) Promptness is to be determined by the facts and circumstances of each public records request. The regular business hours of the office, department, or function of the Subdivision are Monday through Friday, with the exception of holidays designated by Ohio law or by action of the legislative authority of the Subdivision, from 8:00 o'clock A.M. until 4:00 o'clock P.M.

B. For the purpose of enhancing the capacity of the Subdivision to identify, to provide for the prompt inspection, and to permit the provision of copies of the items requested within a reasonable period of time the Subdivision may provide the person making the request for his or her completion with a Public Records Request Form a copy of which is appended hereto.

1. Prompt inspection and the provision of copies of public records within a reasonable period of time envisions the opportunity for file and legal review as the same may be necessary to ensure compliance with applicable legal requirements.
2. Although the office, department, or function of the Subdivision may ask the person making a request for public records to reduce his or her request to written form which includes the items requested, the identity of the person making the request, and the intended use of the items requested, the person making the request shall be advised that:

- a. The requests for information are not mandatory;
- b. The refusal or failure of the person making the request to fill out or to complete the request form fully does not and will not affect or impair the right of the person making the request to inspect and/or to receive copies of any public record. (Ohio Revised Code Section 149.43[B][5])

3. Any person, including corporations, individuals, and even governmental agencies, may request public records, and any person or entity which requests access to public records will be afforded the opportunity for prompt inspection of the same and the provision of copies of the items requested within a reasonable amount of time in a manner consistent with the law.

C. In the event a request is made for the opportunity to inspect or to secure a copy of a public record maintained by the Subdivision the release of which is prohibited, or which is exempted from the requirements of public records disclosure by state or Federal law, the request will be forwarded to legal counsel for the Subdivision who will review the same. At the time of the submission, the individual who submitted the request will be advised that the request is being reviewed by legal counsel to ensure that protected and/or exempted information is not released improperly by the Subdivision.

D. Records, the release of which is prohibited or exempted by either state or Federal law, or which are not considered to be "public records" as defined by Section 149.43(A)(1) of the Ohio Revised Code, will not be released or rendered subject to public inspection or copying. Attached to this document is a listing of public records which are exempted from disclosure or the disclosure of which is prohibited by state or Federal law. The listing is believed to be comprehensive, but it may not include all such exemptions or prohibitions.

## **V. PUBLIC RECORDS REQUESTS.**

### **A. Mailed Requests for Public Records.**

1. Upon the receipt of a written request for copies of public records made in accordance with Section 149.43 of the Ohio Revised Code, and directed to any office, department, or function of the Subdivision which maintains public records, an authorized employee shall, by any means practicable, notify the party making the request that advance payment is required prior to the provision of copies, and that prepayment of the actual costs of mailing the requested records will be required. In addition, the employee will provide the person making the request with his or her best estimate of the cost of copying and mailing which are anticipated

in relation to the request. (Ohio Revised Code Section 149.43[B][7])

2. When it is practical to do so, the office, department, or function of the Subdivision will forward to the person making the request copies of the public records requested by any means reasonably acceptable to the party making the request.

a. The office, department, or function of the Subdivision will permit the party making the request to choose to have the public records which have been requested duplicated on paper, in cases in which said duplication is feasible and consistent with the manner in which the public record is kept and maintained, or upon any other medium on which the record is kept or upon which it can be duplicated reasonably as an integral part of the normal operations of the Subdivision. (Ohio Revised Code Section 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 whatsoever. (Ohio Revised Code Section 149.43[B][7])

3. In accordance with Section 149.43(B)(7) of the Ohio Revised Code, the Subdivision limits the number of requested public documents which are to be transmitted through the United States Mail to a maximum of ten (10) records per month per requesting party, unless the party making the request certifies that the records or information in them will not be used for commercial purposes. The phrase "commercial purposes" shall be construed narrowly 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 non-profit educational research.

4. Authorized employees of the Subdivision shall comply with the following procedures upon the receipt of a valid public records request through the United States Mail.

a. Employees of the Subdivision shall process requests promptly.

b. Persons making requests shall be charged the postage fees and costs of properly sending the requested public records through the mail.

B. Written or verbal requests for the provision of copies of public records will be processed in a manner consistent with similar requests received via United States Mail, with appropriate charge for the actual cost of copying the same.

## **VI. Response and Denials.**

A. Requests for the provision of public records for inspection or copying will be processed in the following manner:

1. If a request is received for a public record which the office, department, or function does not maintain or for a record which no longer is maintained, the individual making the request will be notified in writing utilizing the attached form that one of the following applies:

- a. The request involves public records which are not and have never been maintained by the office, department, or function;
- b. The request involves records that no longer are maintained by the office, department, or function;
- c. The request involves records that previously were maintained but have been disposed of pursuant to the Records Retention Schedules of the Subdivision, and an Application for One-Time Records Disposal (RC-1);
- d. If applicable, the record requested is not one which is used or maintained by the office, department, or function, and, therefore, the office, department, or function is not obliged to provide access to the same.

2. If the request for access to public records is ambiguous or overly broad, or if the request is posed so that it cannot be determined with reasonable certainty what public records are being requested:

- a. The office, department, or function may deny the request; and
- b. If the request is denied on basis that it is overly broad or ambiguous, the person making the request will be advised of this determination and the reasons for the same, and will be afforded the opportunity to revise his or her request so as to render it subject to reasonable understanding.

3. Further, the office, department, or function of the Subdivision may deny a request for access to public records if it is determined that the release of the item requested is prohibited or exempted from the requirement of provision by state or Federal law.

a. Employees of the office, department, or function may and should consult with legal counsel to determine the propriety of release;

b. Employees may check the appropriate box in the attached form to notify the requesting party of the denial or notice of the same may be effected by legal counsel for the Subdivision.

c. As is required by Section 149.43(B)(3) of the Ohio Revised Code, if a request ultimately is denied, in whole or in part, on the ground that disclosure of the requested material is prohibited by or exempted from the requirements of public access by state or Federal law, the individual making the request will be provided with an explanation, including reference to applicable legal authority, setting forth why the request was denied, in the manner set forth below:

(1) The response and explanation shall be in written form;

(2) The explanation provided does not preclude the Subdivision from relying upon additional reasons or legal authority in defending an action commenced pursuant to Section 149.43 of the Ohio Revised Code seeking judicial intervention to secure release.

4. "Redaction" means obscuring, deleting, or removing any information that is exempt from the requirements of public access or the public release of which is prohibited under state or Federal law from an item that otherwise meets the definition of public record as set forth in Section 149.43 of the Ohio Revised Code and is subject to disclosure. (Ohio Revised Code Section 149.43[A][1])

a. A redaction shall be deemed a denial of a request to inspect and/or to copy the redacted information, unless state or Federal law authorizes or requires that the redaction be effected. (Ohio Revised Code Section 149.43[B][1])

b. As to each redaction, the person making the request for access to public records shall be provided with an explanation, including reference to applicable legal authority, as to reason the redaction was effected. (Ohio Revised Code Section 149.43[B][3])

c. If any public record that is requested contains both information which is subject to the requirements of public disclosure, and information which is exempt from disclosure or the disclosure of which is prohibited by state or Federal law, the Subdivision shall make available to the requesting party all of the information contained in the public record which is not exempt from public disclosure and the disclosure of which is not prohibited.

d. As part of the process of redaction, deletion, or removal, the office, department, or function of the Subdivision, shall make the redaction or deletion clearly visible on the public record provided, or notify the party making the request of each redaction, deletion, or removal. (Ohio Revised Code Section 149.43[B][1])

e. In redacting from public records which are to be photocopied, the employee shall redact or delete the material from a copy of the page, and then recopy the modified page and provide the same to the party making the request. The first reproduction page made by the employee shall be a work sheet which shall be retained by the employee and maintained as part of the records containing the original document subject to disposal under retention subject to the original document.

f. Necessary or permissible redactions as to information maintained or to be reproduced in media other than paper shall be effected by deletion, removal, or erasure as the same is appropriate thereto, and any reproduction of the public record which is utilized as a work sheet in effecting this end shall be maintained with the original record subject to disposal under the Retention Schedules applicable to the original document.

5. If any person is aggrieved due to any denial of any office, department, or function of the Subdivision to provide him or her access to or copies of any record of the Subdivision, the person making the request shall be notified that he or she may:

A. Contact the Board of County Commissioners of Miami County, Ohio, as to requests made to any office, department, or function under the direct supervision and control of that body;

B. Contact the elected official, or board or commission which oversees and directs the operation of the office, department, or

function involved. The person making the request and expressing dissatisfaction with the response thereto, shall be provided with the name and contact information of the elected official, board, or commission; and

C. The person making the request and expressing dissatisfaction with the response, shall be notified, in written form, that, if he or she is not satisfied with the response, whether or not he or she contacts the controlling entity as set forth hereinabove, he or she is afforded legal means to address his or her complaint under Section 149.43 of the Ohio Revised Code. (Ohio Revised Code Section 149.43[C][1][2])

#### **VII. Training and Education.**

A. The Subdivision will continue to update and to address all education, training, disclosure, and policy requirements mandated by Section 109.43 and Section 149.43 of the Ohio Revised Code.

B. Elected officials of the Subdivision, or the designees of the same shall complete in a full and timely manner instruction as to the matters at issue under this Policy.

#### **VIII. Tracking Public Records Requests**

A. County departments will track records requests by date of request, date of fulfillment of the related request, the method the records are provided and the actual records provided.