

**CITY OF POWELL**  
PUBLIC RECORDS POLICY

**I. Purpose:**

The City of Powell 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 Powell 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 (paper, computer, film, etc.) that are created, received, or sent under the jurisdiction of the [City of Powell 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 of Powell 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 a designated employee who serves as the custodian of all records maintained by the office, department or function.
  - 1. Each record custodian has a copy of the City of Powell's public records policy. (R.C. 149:43(E)(2)).
- B. The City of Powell's public record policy, as well as, the Schedules of Records Retention and Disposition (RC-2) are located at every location in which the public may access the City of Powell's records.
- C. The City of Powell's public records policy is located in the City's policies and procedures manual.
- D. The City of Powell 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 of Powell, 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 copies of documents, the fees shall be the actual cost as set forth within the current Fee Schedule for the City of Powell. Advance payment is required before any copies are prepared. Two sided copies shall be charged at a rate of one sided copies.
  - 2. Requests for copies of documents that the City of Powell reasonably determines to be voluminous will be sent to an outside contractor for copying and processing. After the City of Powell receives a quote from the outside contractor, the Requestor shall be required to make a deposit for the total amount of the cost of the copies due to the outside contractor. Any overpayment that may result due to the actual cost being lower than the contractor's estimation of the

costs will be immediately returned to the Requestor. If any amount is due to the contractor, the Requestor shall pay all remaining actual costs at the time of delivery.

3. Requests for electronic material deleted from the server/work station/peripheral memory ("ghost" of electronic files) will be sent to an outside contractor at the discretion of the City of Powell based on the City's capability to retrieve the material requests and/or amount of material to be retrieved. After the City of Powell receives a quote from the outside contractor, the Requestor shall be required to make a deposit for the total amount of the cost of the request due to the outside contractor. Any overpayment that may result due to the actual cost being lower than the contractor's estimation of the costs will be immediately returned to the Requestor. If any amount is due to the contractor, the Requestor shall pay all remaining costs at the time of delivery.
4. For video tapes, cassette tapes, compact disks or for any other type of electronic media, the fee shall be the actual cost as set forth within the current Fee Schedule for the City of Powell. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the copy.
5. 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, as well as a copy of the current records retention schedule (R.C. 149.43(B)(1)) maintained by the City of Powell shall be promptly prepared and made available for inspection to any person during regular business hours. Promptness is to be determined by the facts and circumstances of each public records request. Regular business hours for the City of Powell are Monday through Friday (except holidays), from 8:00 am to 5:00 pm.
- B. For the purpose of enhancing the ability of the City of Powell 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 a Public Records Request Form 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 of Powell may ask the requestor to make the request in writing, for the requestor'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 requestor's refusal to complete the Public Records Request form 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 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 of Powell 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 of Powell.
- 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 of Powell that may not be inspected or copied:
1. Medical records;
  2. Trial preparation records;
  3. Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised code;
  4. Peace officer, firefighter, or EMT residential and familial information;
  5. Information pertaining to the recreational activities of a person under the age of eighteen;
  6. Records the release of which is prohibited by state or federal law;
  7. Confidential law enforcement investigatory records meaning any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:
    - a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;
    - b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;
    - c) Specific confidential investigatory techniques or procedures or specific investigatory work product;
    - d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

**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 of Powell shall promptly respond to the request.
  2. An authorized employee of the City of Powell 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 of Powell 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 of Powell 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 of Powell 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 of Powell employees shall comply with the following procedures upon receiving a valid public record request through the United States Postal System:
    - a. City of Powell employees shall promptly process requests.
    - b. Requestors shall be charged the postage fees 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 of Powell shall be processed in the following manner:
1. If the City of Powell 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 the Notice of Denial or Redaction form that one of the following applies:
    - a. Their request involves records that have never been maintained by the City of Powell;
    - b. Their request involves records that are no longer maintained or have been disposed of or transferred pursuant to applicable City of Powell Schedules of Record Retention and Disposition (RC-2);
    - 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 not a record used or maintained by the City of Powell, 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 staff member responsible for the requested public record cannot reasonably identify what public records are being requested:
1. The City of Powell may deny the request.
  2. However, the City of Powell shall provide the requester 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 of Powell  
The City of Powell 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 of Powell 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 the Notice of Denial or Redaction form 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 of Powell 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 of Powell 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 of Powell 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 of Powell shall make available of 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 of Powell 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 of the City of Powell.
  - b. If the person is not satisfied after contacting the City Manager 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 of Powell 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).