

CITY OF HUBER HEIGHTS PUBLIC RECORDS POLICY

MISSION STATEMENT

Openness leads to a better-informed citizenry, which leads to better government and better public policy. Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is the mission and intent of the City of Huber Heights as custodian of Public Records for and on behalf of the people to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act

PURPOSE

The City of Huber Heights maintains, for public view, many documents and records. In accordance with Ohio law and the Public Records Commission for the City of Huber Heights, Record Retention Schedules have been established for the City. The Records Retention Schedules list all of the records maintained by the City and the period of time for which these records are maintained. These records are maintained for the operation of City departments/divisions and to provide a source of information for the public. It is the primary goal of the City that it serves the citizens of Huber Heights in a manner of trust. These records, and the ability to have access to them, are a means to provide trust between citizens and the City of Huber Heights. The underlying purpose of the Huber Heights Public Records Policy is to provide for full and prompt disclosure of public records and assure that City employees take all reasonable steps to properly comply with requests for public records.

DEFINING AND MAINTAINING PUBLIC RECORDS

Public records are documents, devices or items kept by the City that meet both of the following: (1) they are created, received by, or coming under the jurisdiction of the City of Huber Heights; and (2) they document the organization, functions, policies, decisions, procedures, operations, or other activities of the public office. Public records are available to the public unless the records are exempt from disclosure under Ohio law. All public records are organized and maintained in such a way that the records can be made available for inspection and copying. All public records shall be maintained in accordance with the Records Retention Schedules established by the City. Copies of the City's Records Retention Schedules are readily available to the public in the Clerk of Council's Office and on the City's website at www.hhoh.org as required by Section 149.43(8)(2) of the Ohio Revised Code.

Just because the City has a document does not mean it is a public record. In addition to obvious non-records such as junk mail and electronic "spam," some items in the possession of the City do not meet the definition of a public record because the record does not document the activities of a public office. An item received by a public office is not a record simply because the public office could use the item to carry out its duties and responsibilities.

CUSTODIAN OF PUBLIC RECORDS

The Police Chief is the Public Records Administrator for those public records maintained by the Police Division. The Fire Chief is the Public Records Administrator for those public records maintained by the Fire Division. The Clerk of Council is the Public Records Administrator for all of the public records maintained by the rest of the City. Department/division heads are the official *public records custodians* of all public records maintained within the departments/divisions.

In fulfilling the duties of the Public Records Administrator, the Public Records Administrator shall consult with the Law Director and City Manager as appropriate. All Public Records shall be maintained such that no release of Public Records from the custody of the City shall occur except as permitted by the Ohio Public Records Act and the Public Record Commission Retention and Destruction Schedules. *Failure to comply with the Public Record Policy of the City subjects the City to liability; thus, it is incumbent on the City, its employees and public officials and the Public Records Administrator to comply in all respects with the Public Records Law and the City Policy implementing the Public Records Act of the State of Ohio.*

RESPONSE TIMEFRAME

Public records are to be available for inspection to any person at reasonable times during regular business hours, excluding legal holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review and redaction of the records requested.

The regular business hours for City Hall are from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays. The regular business hours for the Police Division are from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays. The regular business hours for the Fire Division are from 7:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

It is the goal of the City of Huber Heights that all requests for public records should be acknowledged in writing or, if possible, satisfied within ten (10) business days following the City's receipt of the request.

HANDLING REQUESTS

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

If after contacting the requestor for clarification, the request is still ambiguous or overly broad, the request may be denied.

An ambiguous request is one that lacks the clarity a public office needs to ascertain what the requester is seeking and where to look for records that might be responsive. This often occurs when the wording of the request is subject to interpretation.

A request can be overly broad when it is so inclusive that the public office is unable to identify the records sought based on the manner in which the office routinely organizes and accesses records. The courts have also found a request overly broad when it seeks what amounts to a complete duplication of a major category of a public office's records. Examples of overly broad requests include requests for:

All records containing particular names or words; (Example: "All records regarding Fishburg Road.")

All emails sent or received by a particular email address with no subject matter and time limitation; (Example: "All emails between the City Manager and Councilmember X.")

Records regarding a specific topic, but excluding a subcategory; (Example: "All police reports for the last two weeks, but excluding those involving misdemeanor offenses.")

If a request is deemed overly broad, the City will provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the City and accessed in the ordinary course.

The requestor does not have to put a records request in writing and does not have to provide his or her identity or the intended use of the requested public record. It is the City of Huber Heights' general policy that this information is not to be requested. However, the law does permit the office to ask for a written request, the requestor's identity, and/or the intended use of the information requested, but ONLY (1) if a written request or disclosure of identity or intended use would benefit the requestor by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; AND (2) after telling the requestor that a written request is not required and that the requester may decline to reveal the requestor's identity or intended use.

Requests for public records may be written or oral. If a public records request is made orally, the City employee receiving the request will write down the request on Public Records Request Form and read it back to the requestor to make sure the request is accurate. If a public records request is made in writing, the City employee will indicate the date the request was received on the Public Records Request Form and the written request shall be attached to the Public Records Request Form. All public records requests received by a City employee shall be forwarded to the appropriate Public Records Administrator for the City for further processing and response.

In processing the request, the Public Records Administrator does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to

exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying.

A copy of the most recent edition of the Ohio Sunshine Laws manual is available via the Attorney General's internet website at www.ohioattorneygeneral.gov for the purpose of keeping employees of the City of Huber Heights and the public educated as to the City's obligations under the Ohio Public Records Act and the Open Meetings Act.

The policy of the City of Huber Heights is to never duplicate requested copies of public records on the requestor's provided CDs, DVDs, flash devices, or other devices. The risks of unintended contamination of the internal computer systems of the City are too great. The City of Huber Heights will always duplicate requested copies of public records on CDs, DVDs, flash devices, or other devices provided by the City.

Requests for Inspection. All requests to inspect public records shall be forwarded to the Public Records Administrator for processing. Upon request for inspection of public records, the request shall be promptly complied with and the public records shall be made available for inspection by the City of Huber Heights at all reasonable times during regular business hours. The inspection may not be immediate if the requested record contains information that may need to be redacted. The City may require that a City employee be present during the inspection, but shall not deny an inspection if no employee is available. In processing a request for inspection of a public record, a City employee's presence with the request or during the inspection is to make certain original records are not taken or altered.

Requests for Copying. Upon request for copying of public records, the request shall be promptly complied with and the public records shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Mailing. Upon request for mailing of public records, the request shall be promptly complied with and the public records mailed by a City employee within a reasonable amount of time, provided the requestor has provided the necessary mailing information.

Requests for Video and Audio. Upon request for video and audio public records, the request shall be promptly complied with and the video and audio public records shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Photographs. Upon request for photographs that are public records, the request shall be promptly complied with and the photographs shall be copied by a City employee and made available within a reasonable amount of time.

Requests for Electronic Media. Upon request for electronic media of public records, the request shall be promptly complied with and the electronic media copied by a City employee and made available within a reasonable amount of time. The requestor may choose to have the public records duplicated (i) upon paper, (ii) upon the same medium upon which the City keeps the record, or (iii) on any other medium the City determines it can be reasonably duplicated as an integral part of the normal operations of the City.

ELECTRONIC RECORDS

Records in the form of email, text messaging, and instant messaging, including those sent and received via handheld communications devices are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of the City of Huber Heights are required to retain their email records and other electronic records in accordance with applicable Records Retention Schedules.

DENIAL OR REDACTION OF RECORDS

Determining that requested documents or that certain information contained in requested documents is not a public record and therefore not subject to disclosure or that a public record or information contained therein is exempt from disclosure is a serious action. Accordingly, all decisions to deny a public records request or to redact information from public records, (other than routine redactions that are made on all similar documents) which is also a denial shall be executed by and signed off on by the Public Records Administrator or the City Manager. Routine redactions include but are not limited to redacting social security numbers, protected personal information, witness information from police records.

If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the City of Huber Heights shall make available all of the information within the public record that is not exempt. If portions of a public record are public and other portions of a public record are exempt, the exempt portions may be redacted, and the rest of the public record released.

If it is not clear whether the public record is one that can be released, the requestor should be told that it is not clear if a public record can be released and that the City will allow inspection or provide copies to the extent permissible as soon as the Public Records Administrator in conjunction with the Law Director has had the opportunity to review the request.

Redacting information from a public record is considered a denial of a public record. When making a public record available for public inspection or copying that has had information redacted, the City shall notify the requestor of the redaction or make the redaction plainly visible.

If a public records request is ultimately denied, in part or in whole (including any redactions), the Public Records Administrator shall complete a Denial/Redaction of Public Records Request Form and which provides the requestor with a written explanation, including legal authority, the reason why the request was denied, or the information was redacted. Any denial of public records requested must include an explanation, including the legal authority for the denial of the public records. If the initial request was made in writing, the explanation must also be in writing. If the request was made orally, the requestor may be told orally why the request was denied.

If the requester makes an ambiguous or overly broad request or has difficulty in making a request for public records such that the Public Records Administrator processing the request cannot reasonably identify what public records are being requested, the request may be denied, but the denial must provide the requestor an opportunity to revise the request by informing the requestor of the manner in which records are maintained and accessed by the City of Huber Heights.

COPYING AND MAILING COSTS

Those seeking public records may be charged only the actual cost of making or duplicating copies, not for labor costs. The costs for public records are outlined in the Public Records Fee Schedule.

A requestor may be required to pay in advance for costs involved in providing the copies of public records. The requestor may choose whether to have the record duplicated upon paper, on the same medium upon which the City keeps the record, or on any other medium the City determines it can reasonably be duplicated as an integral part of the normal operations of the City.

If a requestor asks that copies of public records be mailed, he or she may be charged the actual cost of the postage and mailing supplies. There is no charge for copies of public records that are emailed.

PUBLIC RECORD POLICY – LEGAL HOLD

The concept of a "Legal Hold" has been around from the advent of modern-day jurisprudence. The concept of a "Legal Hold" as applied to a municipality is triggered when a municipality has *the first reasonable suspicion* that a claim may be asserted against it or that it has a claim to assert against a third-party.

The theory is that anything and everything that could reasonably be related to the litigation must be "held" by both parties to the litigation to ensure that all evidence reasonably related to the litigation is preserved.

The theory continues that the finders of fact (the Jury) and the applier of the law to the facts (the Court) will then have all available tools at their disposal to make their decision.

A "Legal Hold" is typically called for by Legal Counsel since typically Legal Counsel will be involved in any negotiations leading up to any litigation. (However, if the litigation comes out of nowhere and is totally unexpected the "Legal Hold" would automatically apply.)

However, the triggering event, being when the City has the *first reasonable suspicion* may very easily be known by the City well in advance of the Law Director. It is imperative that the City consult with Legal Counsel when it does have the *first reasonable suspicion* that a claim may be asserted against it or that it has a claim to assert.

Once the "Legal Hold" is applied ALL records in the possession of the City reasonably related to the litigation, including electronic records (or if litigation is imminent as determined by legal counsel) shall be retained or "held" by the City until the litigation is finally resolved.

Thus, regardless of what the City's Public Records Policy is with regard to retention and destruction of records, the "Legal Hold" requires that those applicable records *must be held for the life of the litigation*.

As an example, if a record under the Public Records Retention Schedule calls for that record to be retained for five years and the litigation lasts for seven years the pertinent record **MUST BE HELD** for the full seven years.

Certain electronic records have a very limited retention period and may be destroyed immediately when the retention period has expired. Nevertheless the "Legal Hold" in the above example will require that the short-term electronic records must be held for the full seven-year life of the litigation.

Any questions with regard to the "Legal Hold" Policy should be directed to the Clerk of Council or the Law Director. *See the Legal Hold Policy of the City in the possession of the City Manager and the Clerk of Council.*

VIDEO RECORDS POLICY – HUBER HEIGHTS POLICE DIVISION ***(Pursuant To Ohio House Bill 315)***

1. Scope:

- a) This policy applies to all public records requests involving video records (e.g., body camera, cruiser camera, or other video footage) maintained by the Huber Heights Police Division pursuant to Ohio Revised Code Section 149.43(B)(1), as amended by House Bill 315.

2. Fees For Video Records:

- a) The Police Division will charge all requesters the "actual cost" of preparing video records for production to offset the considerable time and expenses incurred in retrieving, downloading, reviewing, redacting, uploading, and producing such video records.
- b) The statutory term, "a video record," for the purposes of this policy, means a video from one source for one start and stop recording (essentially the beginning and end of a distinct incident). For example, three (3) officers responding to an incident will each have "a video record" of that incident from each of their respective body cameras. This example will result in an actual cost charge for each video record, or three (3) video records.

- c) The amount charged for each video record will be based on the actual cost of the hourly rate(s) of the employee(s) or contractor(s) involved in retrieving, downloading, reviewing, redacting, uploading, and producing the video record requested, but will not exceed \$75.00 per hour of footage from a particular video record. Further, the total amount charged for retrieving, downloading, reviewing, redacting, uploading, and producing a video record will not exceed a maximum of \$750.00 for a particular video record.
- d) “Actual cost” includes all employee or contractor time and materials expended in retrieving, downloading, reviewing, redacting, uploading, and producing the video record, including staff time, storage media, and a portion of necessary overhead expenses required to comply with the public records request.
- e) As part of the necessary overhead charges authorized by statute, each public records request for video records will include an overhead fee of \$10.00 per video record to partially cover costs such as redaction software, video storage, upload and transmission, and other necessary expenses. This fee is included within the total actual cost and subject to the \$750.00 maximum cost per video record.

3. Critical Incident Exemption:

- a) For video records of critical incidents—defined as any instance where an officer from the Police Division fires a deadly weapon at a person—the Police Division will redact and produce the video at no cost to the requester within a reasonable period of time as defined in Ohio Revised Code Section 149.43(B)(1).
- b) This exemption is intended to ensure transparency and public accountability in such incidents.

4. Fee Exemptions:

- a) Upon submission of a fully completed Exemption Request (in such form as prescribed by the City Manager and the Law Director) and approved thereof by the City Manager, the following persons/entities may be determined to be exempt from the fee requirements of this policy: (a) an official representative of a public office as defined in Ohio Revised Code Section 149.011(A); (b) in order to respond to a duly issued subpoena in a criminal or other legal proceeding and/or an order of a court of competent jurisdiction; or (c) for any other public purpose as determined by the City Manager in his/her sole and absolute discretion.

5. Estimate Process And Advance Payment Requirement:

- a) Within five (5) business days of receiving a public records request for video records, the Police Division will provide the requester with an estimate of the cost of fulfilling the public records request.
- b) The estimated cost will include all applicable fees as outlined in Section 2, including the \$10.00 overhead fee per video record and an estimate of the cost required for video redaction and production, not to exceed the \$750.00 per video record limit.
- c) Except as provided in Section 3, the Police Division will not begin preparing a video record for production until the requester pays in full the estimated cost for the video record.

6. Cost Adjustments:

- a) If the actual cost exceeds the estimated cost by less than 20%, the requester will be required to pay the difference before the video record is provided.
- b) Under no circumstances will the requester be required to pay more than 20% above the original estimated cost, regardless of how much the actual cost exceeds the estimate. Any additional cost beyond this 20% threshold will be borne by the Police Division.
- c) If the estimated amount exceeds the actual cost by more than 20%, the difference will be refunded to the requester in a reasonable amount of time.

7. Compliance Timeline:

- a) Except as provided in Section 3, the Police Division's obligation to make a video record available for production begins only after the requester pays in full the estimated cost.
- b) The time required for retrieving, downloading, reviewing, redacting, uploading, and producing (as well as seeking legal advice), will be considered in determining a "reasonable period of time" under Ohio Revised Code Section 149.43.

8. Contact Information:

- a) For questions about this policy or to submit a public records request, contact the Communications/Records Manager at the Huber Heights Police Division.

**Please contact the City of Huber Heights Public Records
Administrator, Anthony Rodgers, Clerk of Council, at:**

Address: Huber Heights City Hall

6131 Taylorsville Road, Huber Heights, Ohio 45424

Phone: (937) 233-1423

Email: arodgers@hhoh.org

**Please contact the City of Huber Heights Police Division Public
Records Administrator, Mark Lightner, Police Chief, at:**

Address: Huber Heights Police Division

6121 Taylorsville Road, Huber Heights, Ohio 45424

Phone: (937) 233-1565

Email: mlightner@hhoh.org

**Please contact the City of Huber Heights Public Records
Administrator, Keith Knisley, Fire Chief, at:**

Address: Huber Heights Fire Division

7008 Brandt Pike, Huber Heights, Ohio 45424

Phone: (937) 233-1564

Email: kknisley@hhoh.org

*** As Approved By Ordinance No. 2025-O-2686 on April 14, 2025 And Effective April 14, 2025.**