

PUBLIC RECORDS POLICY¹

MISSION STATEMENT

Openness leads to a better-informed citizenry, which leads to better government and better public policy. It is the mission and intent of the City of Upper Arlington to, at all times, fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act.

DEFINING PUBLIC RECORDS

A "record" is defined to include the following: A document in any format — paper, electronic (including, but not limited to, business e-mail) — that is created, received by, or comes under the jurisdiction of the City of Upper Arlington that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

A "public record" is a "record" that is being kept by the public office at the time a public records request is made, subject to applicable exemptions from disclosure under Ohio or federal law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

RESPONSE TIMEFRAME

Public records are to be available for inspection during regular business hours. Public records must promptly be made available for inspection. 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, the necessity for any legal review and redaction, and other facts and circumstances of the records requested.

It is the goal of the City of Upper Arlington that all requests for public records should be acknowledged in writing or, if feasible, satisfied within five business days following the office's receipt of the request.

Copies of video records must be produced within a reasonable period of time. Video records must be made available for inspection promptly. "Prompt" and "reasonable" take into account the time it takes the office to retrieve, download, review, redact, seek legal advice regarding, and produce the video record, as well as other facts and circumstances of the records requested.

If the office requires the requester to pay in advance for the actual cost of preparing a video record for production or inspection, the office's obligation to produce the video record within a reasonable period of time, or to make it available for prompt inspection, does not begin until the requester has paid the estimated actual cost in full.

Video records will only be available for inspection during regular business hours.

HANDLING REQUESTS

No specific language is required to make a request for public records. However, the requester must, at a minimum, identify the records requested with sufficient clarity to allow the office to identify, retrieve, and review the records.

The requester does not have to submit a records request in writing and does not have to provide their identity or the intended use of the requested public record(s). However, the law does permit the office to ask for a written request, the requester's identity, and/or the intended use of the information requested, but only if (1) a written request or disclosure of identity or intended use would benefit the requester by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; and (2) the requester is first told that a written request is not required and that the requester may decline to reveal the requester's identity or intended use. The office utilizes JustFOIA to log and track records requests. Requesters are provided tracking numbers once the request is entered.

In processing the request, the office does not have an obligation to create new records or perform a search or research for information in the office's records. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through the office's standard use of sorting, filtering, or querying features.

In processing a request for inspection of a public record, an office employee may accompany the requester during inspection to make certain original records are not taken or altered.

A copy of the most recent edition of the Ohio Sunshine Laws Manual is available via the Ohio Attorney General's website (www.OhioAttorneyGeneral.gov/YellowBook) for the purpose of keeping employees of the office and the public educated as to the office's obligations under Ohio's Public Records Act, Ohio's Open Meetings Act, records retention laws, and the Personal Information Systems Act.

DENIAL AND REDACTION OF RECORDS

If the requester makes an ambiguous or overly broad request or has difficulty in making a request such that the office cannot reasonably identify what public records are being requested, the request may be denied, but the office must then provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by the office.

If the office withholds, redacts, or otherwise denies requested records, it must provide an explanation, including legal authority, for the denial(s). If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest must be released. When making public records available for public inspection or copying, the office shall notify the requester of any redaction or make the redaction plainly visible.

ELECTRONIC RECORDS

Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device, 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 this office are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.

PRODUCTION, COPYING, AND MAILING COSTS

Those seeking public records may be charged only the actual cost of making copies, not labor (with certain exceptions). If a requester asks that documents be delivered to them, they may be charged the actual cost of the postage and mailing supplies, or other actual costs of delivery. There is no charge for e-mailed documents or documents sent via a file sharing site. For in-house copies of public records on 8.5 x 11", 8.5 x 14", or 11 x 17" one-sided paper, the copy cost is \$0.05 per page.

The City of Upper Arlington may charge for the “actual cost” of preparing a video record for production or inspection. Actual cost includes the cost to review, blur or otherwise obscure, redact, upload, or produce a video record. Actual cost may also include the cost of the storage medium the office uses to produce a video record, staff time, and any other relevant overhead necessary to comply with the request.

The charge for electronic files downloaded to a flash drive is currently \$3.00, though that amount may fluctuate depending on the actual cost. Due to security concerns, the City is unable to download records onto flash drives or other materials provided by a requester.

A requester may be required to pay in advance for the actual costs involved in providing the copy or flash drive. The requester may choose whether to have the record duplicated upon paper, upon the same medium on which the public record is kept, or upon any other medium on which the office determines that the record can reasonably be duplicated as an integral part of the office's normal operations.

The City of Upper Arlington may require a requester to prepay the actual cost of preparing a video record for production or inspection. If prepayment is required, the office will provide an estimate of the actual cost within five business days of receiving the request.

The office is not required to start preparing a video record for production or inspection until the requester pays the estimated actual cost in full. The office’s obligation to produce a video record or make it available for inspection starts when the requester pays the estimated actual cost in full.

The office will notify the requester if the final actual cost exceeds the estimated actual cost. The requester may be required to pay the difference if: (1) the requester is notified in advance that the actual cost will be higher than the estimate, and (2) the actual cost is less than twenty percent more than the estimated cost. The requester will not be required to pay the difference if the actual cost exceeds the estimated cost by more than twenty percent.

Nothing in this policy is intended to impact the timing of record production or access to certain records by a victim under Marsy’s Law or a criminal defendant making a demand for discovery.

WAIVER OF COSTS

The City of Upper Arlington may waive or reduce payment of the actual cost if in the judgment of the City of Upper Arlington, the video or a portion of the video shows, communicates, or discloses information that is of great interest or importance to the general public.

MANAGING RECORDS

The City of Upper Arlington records are subject to records retention schedules. The office's current schedules are accessible on the City's website, a location readily available to the public as required by Ohio Revised Code §149.43(B)(2).