

PUBLIC RECORD ACCESS REGULATIONS

1. Any citizen of Delaware may have access to public records for the purpose of inspection and copying pursuant to the terms of these regulations and pursuant of Delaware's Freedom of Information Act (29 Del. C. Chapter 100).
2. Inspection and copying of public records may take place only during the regular business hours of 8:00 A.M. and 5:00 P.M., Monday through Friday.
3. Requests for inspection or copying of public records shall be made in writing on the appropriate form.
4. The City of Seaford reserves the right to refuse access to any records which do not constitute "public records" under 29 Del. C. Subsection 10002.
5. Public records which are in active use, or in storage, will be provided as promptly as possible and appointments will be scheduled when necessary.
6. At no time shall public records be removed from the City of Seaford Municipal Building.
7. Persons requesting copies of public records shall pay the following fees unless otherwise set forth in the Delaware Code or any applicable code of a county or municipal public body, the following fees shall apply:

(1) *Photocopying fees.* — In instances in which paper records are provided to the requesting party, photocopying fees shall be as follows:

Standard-sized, black and white copies: The first 20 pages of standard-sized, black and white copies material shall be provided free of charge. The charge for copying standard sized, black and white public records for copies over and above 20 shall be \$0.10 per sheet (\$0.20 for a double-sided sheet). This charge applies to copies on the following standard paper sizes: 8.5" x 11", 8.5" x 14", and 11" x 17".

Oversized copies/printouts: The charge for copying oversized public records shall be as follows: 18" x 22", \$2.00 per sheet; 24" x 36", \$3.00 per sheet; documents larger than 24" x 36", \$1.00 per square foot.

Color copies/printouts: An additional charge of \$1.00 per sheet will be assessed for all color copies or printouts for standard-sized copies (8.5" x 11", 8.5" x 14", and 11" x 17") and \$1.50 per sheet for larger copies.

(2) *Administrative fees.* — Administrative fees shall be levied for requests requiring more than 1 hour of staff time to process. Charges for administrative fees may include staff time associated with processing FOIA requests, including, without limitation: identifying records; monitoring file reviews; and generating computer records (electronic or print-outs). Administrative fees shall not include any cost associated with the public body's legal review of whether any portion of the requested records is exempt from FOIA. The public body shall make every effort to ensure that administrative fees are minimized, and may only assess such charges as shall be reasonable required to process FOIA requests. In connection therewith, the public body shall minimize the use of nonadministrative personnel in processing FOIA requests, to the extent possible.

Prior to fulfilling any request that would require a requesting party to incur administrative fees, the public body shall provide an itemized written cost estimate of such fees to the requesting party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the requesting party may decide whether to proceed with, cancel, or modify the request.

Administrative fees will be billed to the requesting party per quarter hour. These charges will be billed at the current hourly pay grade (prorated for quarter hour increments) of the lowest-paid employee capable of performing the service. Administrative fees will be in addition to any other charges incurred under this section for copying fees.

When multiple FOIA requests are submitted by or on behalf of the requesting party in an effort to avoid incurring administrative charges, the public body may in its discretion aggregate staff time for all such requests when computing fees hereunder. Notwithstanding the foregoing, any Freedom of Information Act policy adopted by a public body pursuant to subsection (b) of this section hereunder may include provisions for the waiver of some or all of the above administrative fees; provided that such waiver shall apply equally to a particular class of persons (i.e., nonprofit organizations).

(3) *Microfilm and/or microfiche printouts.* — The first 20 pages of standard-sized, black and white material copied from microfilm and/or microfiche shall be provided free of charge. The charge for microfilm and/or microfiche printouts over and above 20 shall be \$0.15 per sheet.

(4) *Electronically generated records.* — Charges for copying records maintained in an electronic format will be calculated by the material costs involved in generating the copies (including but not limited to DVD, CD, or other electronic storage costs) and administrative costs.

(5) *Payment.* — The public body may require all or any portion of the fees due hereunder to be paid prior to any service being performed pursuant to this section

DEFINITION OF A PUBLIC RECORD

"Public record" is information of any kind, owned, made, used, retained, received, produced, composed, drafted or otherwise compiled or collected, by any public body, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded or reproduced. For purposes of this chapter, the following records shall not be deemed public:

- (1) Any personnel, medical or pupil file, the disclosure of which would constitute an invasion of personal privacy, under this legislation or under any State or federal law as it relates to personal privacy;
- (2) Trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature;
- (3) Investigatory files compiled for civil or criminal law-enforcement purposes including pending investigative files, pretrial and presentence investigations and child custody and adoption files where there is no criminal complaint at issue;
- (4) Criminal files and criminal records, the disclosure of which would constitute an invasion of personal privacy. Any person may, upon proof of identity, obtain a copy of the person's personal criminal record. All other criminal records and files are closed to public scrutiny. Agencies holding such criminal records may delete any information, before release, which would disclose the names of witnesses, intelligence personnel and aids or any other information of a privileged and confidential nature;
- (5) Intelligence files compiled for law-enforcement purposes, the disclosure of which could constitute an endangerment to the local, state or national welfare and security;
- (6) Any records specifically exempted from public disclosure by statute or common law;
- (7) Any records which disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor;
- (8) Any records involving labor negotiations or collective bargaining;
- (9) Any records pertaining to pending or potential litigation which are not records of any court;
- (10) Subject to § 10004(f) of this title with respect to release of minutes of executive sessions, any record of discussions held in executive session pursuant to § 10004(b) and (c) of this title;
- (11) Any records which disclose the identity or address of any person holding a permit to carry a concealed deadly weapon; provided, however, all records relating to such permits shall be available to all bona fide law-enforcement officers;
- (12) Any records of a public library which contain the identity of a user and the books, documents, films, recordings or other property of the library which a patron has used;
- (13) Any records in the possession of the Department of Correction where disclosure is sought by an inmate in the Department's custody;
- (14) Investigative files compiled or maintained by the Victims' Compensation Assistance Program;
- (15) Any photographs, video recordings or audio recordings of a postmortem examination in the possession of the Division of Forensic Science;

(16) Emails received or sent by members of the Delaware General Assembly or their staff;

(17)a. The following records, which, if copied or inspected, could jeopardize the security of any structure owned by the State or any of its political subdivisions, or could facilitate the planning of a terrorist attack, or could endanger the life or physical safety of an individual:

1. Response procedures or plans prepared to prevent or respond to emergency situations, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures or specific security procedures.
2. Building plans, blueprints, schematic drawings, diagrams, operational manuals or other records of mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are used or stored, arenas, stadiums, waste and water systems, electric transmission lines and substations, high-pressure natural gas pipelines and compressor stations, and telecommunications networks facilities and switching equipment, the disclosure of which would reveal the building's or structure's internal layout, specific location, life, safety and support systems, structural elements, surveillance techniques, alarm or security systems or technologies, operational and transportation plans or protocols, or personnel deployments. Records that disclose the substances being used or stored on a given piece of property are public records; however, records which disclose the specific location on that property of the substances being used or stored may be disclosed only if the chief administrative officer of the agency from which the record is requested determines that disclosure will not jeopardize the security of any structure owned by the State or any of its political subdivisions, or will not facilitate the planning of a terrorist attack, or will not endanger the life or physical safety of an individual.
3. Records of any building or structure operated by the State or any of its political subdivisions, the disclosure of which would reveal the building's or structure's life, safety and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments.
4. Records prepared to prevent or respond to emergency situations identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained or regulated by the State or any of its political subdivisions.
5. Those portions of records assembled, prepared or maintained to prevent, mitigate or respond to criminal acts, the public disclosure of which would have a substantial likelihood of threatening public safety. The only items that are protected from disclosure by this paragraph are:
 - A. Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments or to the response or deployment plans; and
 - B. Records not subject to public disclosure under federal law that are shared by federal or international agencies and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for criminal acts against United States citizens or targets.
6. Nothing in this subsection shall be deemed to prohibit the disclosure of information necessary to comply with the requirements of Chapter 8 of Title 26, the Underground Utility Damage Prevention and Safety Act.

b. Nothing in this paragraph shall interfere with the right of any committee of the General Assembly to hear information in the committee at the request of the committee chair or, if appropriate, to hear information in an executive session of the committee, or to subpoena information pursuant to § 705 of this title;

(18)a. Any military service discharge document or documents, a discharge, separation notice, certificate of service, report of transfer or discharge, or any other notice or document which is evidence of severance or transfer from military service and which contains a service record from the armed forces of the United States, or any document that purports to represent a notice of separation from or service in any armed forces of the United States including but not limited to the United States Department of Defense, DD Form 214, of a veteran of the armed forces of the United States, which has been heretofore recorded at a county

recorder of deeds. Such document or documents may only be disclosed in accordance with the provisions of paragraph (g)(17)b. of this section.

b. *Access to authorized persons.* — The following persons are permitted to view or reproduce recorded military service discharge documents:

1. The veteran subject of the discharge;
2. The spouse or child of a veteran, with consent of the veteran;
3. If the veteran is deceased, a survivor or heir of the veteran who may be eligible to claim any type of benefit by virtue of the veteran's service in the military;
4. A person with a signed and notarized authorization from the veteran;
5. A county, state or federal officer assisting the veteran or veteran's family with a veteran's benefit application;
6. Anyone authorized by an order from a Delaware court, to view or copy the document; or
7. Government agencies, including courts, that have an interest in assisting the veteran subject to the military service discharge record or in assisting the beneficiaries of the deceased veteran subject to the military service discharge record in obtaining a benefit.

c. Any document referenced in paragraph (l)(18)a. of this section shall be deemed a public record upon the passage of 70 years from the date of the subject veteran's separation or discharge from service; or

(19) Any communications between a member of the General Assembly and that General Assembly member's constituent, or communications by a member of the General Assembly on behalf of that General Assembly member's constituent, or communications between members of the General Assembly.

APPLICATION FOR ACCESS TO PUBLIC RECORDS

DATE OF REQUEST: _____
APPLICANTS NAME: _____
COMPANY (IF ANY): _____
APPLICANTS ADDRESS: _____

TELEPHONE NUMBER: _____
EMAIL ADDRESS: _____

Records Requested

Be as specific as you can, describing types of records, dates, parties to correspondence, subject matter, etc. The public body will make every reasonable effort to assist you in identifying the records being sought.

Note: Requests for voluminous records may be delayed.

There may be costs involved in responding to your request. The public body can require you to examine the records at the office of the public body. Refer to the public body's policy or regulation for information about costs and access to records.

Please contact me if costs will be greater than: \$ _____

* Within 15 business days from receipt of your request the public body must either provide you with access to the records, deny your request, or state that additional time is needed.*

NOTICE : Under Delaware's Freedom of Information Act, [29 Del. C. §§10001-10006](#) ("FOIA"), a FOIA request or petition, along with any information contained therein or any documents attached thereto, submitted to any "public body" subject to FOIA, including, without limitation, any board, bureau, commission, department, agency or committee of the State, may itself be deemed a "public record" subject to disclosure under FOIA. More information on FOIA is available at foia.delaware.gov .

(FOR CITY USE ONLY)

DATE ACCESS GRANTED: _____
APPOINTMENT DATE: _____
COPYING CHARGES: _____
CITY REPRESENTATIVE: _____