I. PURPOSE AND SCOPE

A. Purpose

The purpose of this Emergency Operations Plan is to provide a framework to help responders and the governmental jurisdictions of Summit County manage an emergency or disaster. This document is meant to help ensure that the County of Summit is prepared to handle any situation, and to reduce the losses in both terms of human life and property damage. This document is not designed to cover every possible scenario, but is intended to provide the framework for broad tasks and actions that are specific to individual hazards, emergencies, and disasters. This document shall include the basic plan, functional annexes, and hazard specific appendices.

B. Scope

The Emergency Operations Plan is designed to prevent, minimize, prepare for, respond to, and recover from technological, human cause, human accidental, and natural disasters. This document will define the responsibilities, actions, and interactions between all response organizations acting on behalf of Summit County and its residents.

II. SITUATION AND ASSUMPTIONS

A. Situation

1. Summit County is located in North East Ohio.

2. According to the 2010 Census, the population of Summit County is 541,781.

3. Summit County is comprised of 31 political subdivisions.

4. There are many modes of transportation running through Summit County including a rail system, five airports, eleven heliports, and several major highways, most notably Interstates 76 and 77 and State Route 8.

5. Several special needs populations reside in Summit County including: daycare centers, schools, physically and mentally disabled, non-English speaking, homeless, and elderly.
6. High probability hazards include: winter storms, transportation incidents, hazardous material incidents, and tornadoes.

B. Assumptions

1. An emergency or disaster may occur at any time of day or night, weekend or holiday, and with little to no warning.

2. Close working relationships must be established among key responding organizations prior to a crisis situation.

3. Disasters may require coordination and cooperation among diverse governmental and private organizations in order to protect the lives and property of Summit County residents.

4. The county and its political subdivisions have capabilities including manpower, equipment, supplies, skills of public and private agencies, and groups that will maximize preservation of lives and property in the event of a disaster.

5. Mitigation and prevention activities conducted prior to the occurrence of a disaster will result in a potential reduction in loss of life, injuries, and property damage.

6. Organizations tasked in this document are aware of their emergency responsibilities and will fulfill these requirements in a disaster.

III. CONCEPT OF OPERATIONS

A. General

1. The basis for delegation of emergency authority is to ensure that emergency-related legal authority can be exercised. It is legally designated in the Ohio Revised Code, Chapters 5502, 305, 307, 311, and 733.

2. The primary mission of Emergency Management is to lead, coordinate, and support the emergency management system, in order to protect lives and prevent the loss of property from all hazards. Meeting this mission is facilitated by dividing emergency management activities in the following categories: mitigation, preparedness, response, and recovery.
B. Phases of Emergency Management

1. Mitigation

Mitigation involves activities that are undertaken prior to a potential disaster in order to lessen the impact of the disaster. Mitigation is used to lessen the loss of life and property. When using mitigation, the county must assume that it is exposed to a risk whether or not an emergency ever occurs. Mitigating for an emergency ensures the county that it can handle an emergency if one does occur.

Mitigation includes planning and action in the following areas:

   a. Building Codes
   b. Insurance
   c. Construction Standards
   d. Risk Mapping
   e. Hazard Research
   f. Rules and Regulations
   g. Health and Safety Inspections
   h. Public Education

2. Preparedness

Preparedness involves activities that should be put into action when an emergency is unavoidable. These preparedness activities should be used when planning for any emergency. When put together, these activities promote a coordinated response which is vital to having a successful emergency response.

Preparedness activities include the following:

   a. Completion of Hazard Analyses
   b. Functional Planning
   c. Mutual Aid Agreements
   d. Personnel Training
   e. Testing and Exercising the Emergency Operations Plan
   f. Continuity of Government
   g. Emergency Alert System
   h. Developing an Emergency Operations Center

3. Response

Response is considered any action that takes place immediately before, during, or after an emergency occurs. Response actions are
those used to save lives, protect property, and aid with the recovery process when the disaster strikes. Direction, control, warning, and evacuation are all types of actions in the response effort.

Response activities include the following:

a. Activation of the Emergency Response Plan
b. Staffing the Emergency Operations Center (EOC)
c. Notifying Key Personnel
d. Activation of the Emergency Warning System
e. Providing Emergency Medical Assistance
f. Securing the Scene
g. Fire Fighting Operations
h. Law Enforcement Operations
i. Search and Rescue Operations
j. Protective Action Announcements

4. Recovery

Recovery involves the short-term effort to return vital life-support systems to the minimum operating levels. Recovery also involves long-term efforts to return the community to the state it was in before the disaster.

Recovery activities include the following:

a. Crisis Counseling
b. Damage Assessment
c. Debris Clearance
d. Decontamination
e. Sheltering of Victims
f. Temporary Housing Efforts
g. Delivering Food and Supplies to Victims
h. Distributing Public Information
i. Reconstruction
j. Reassessment of Emergency Plans

Mitigation, preparedness, response, and recovery fall within recognized time periods. Mitigation and preparedness activities take place in the pre-emergency time-frame. Response activities occur in the trans-emergency time frame and recovery efforts occur in the post-emergency time frame.

Mitigation, preparedness, response, and recovery are addressed in each functional annex of this plan to include the essence of planned arrangements for each time frame.
C. A Capability Assessment for Readiness Review

1. A Review of the overall Emergency Management System will be done at a minimum of once every five years.

2. While fire and police chiefs have responsibility over lives and property, and other elected and appointed officials have official and specific responsibilities as outlined in the Ohio Revised Code; it is the responsibility of the County of Summit Executive, Mayors and Trustees to see that the needs of the citizens under their jurisdiction are being efficiently met in a coordinated manner.

3. Should there be an occurrence that affects only one jurisdiction within the county; emergency operations will take place under that jurisdiction's direction and control with the county Emergency Management Agency supporting the operation through augmentation of manpower, equipment and materials. Summit County Emergency Management Agency will provide assistance to the local incident commander/elected official by identifying and locating these additional resources at the county, local, state and federal levels.

4. Should there be an incident/event that affects two or more jurisdictions within the county, emergency operations will initially take place under each jurisdiction's direction and control. However, if the responses demand similar or competing resources, the involved entities will quickly collaborate to establish the most appropriate ICS structure (i.e. Incident Complex or Area Command). Consideration will also be given to establishing a shared emergency operations center, if the County Emergency Operations Center (CEOC) is not activated. All involved entities must coordinate their resource management, including ordering and demobilization procedures. Summit County Emergency Management Agency will provide coordination of resources as noted in #2 above.

5. Should there be an incident/event which affects many or all jurisdictions, emergency operations will initially take place under each jurisdiction's direction and control. However, if the responses demand similar or competing resources, the involved entities must quickly collaborate to establish the most appropriate ICS structure (i.e. Incident Complex or Area Command). Each affected local entity will establish a Department Operation Center (DOC) and the County Emergency Operations Center (CEOC) will be established and staffed as outlined in Annex A, Direction and Control, of this plan. Once the CEOC is operational, all requests for
assistance/resources (local, county, state or federal) will be routed through the Department Operation Centers to the County Emergency Operations Center. All involved entities must coordinate their resource management, including ordering and demobilization procedures. Summit County Emergency Management Agency will support and coordinate operations at the County Emergency Operations Center in conjunction with the County Executive.

6. The Chief Elected Official of affected County jurisdictions may exercise all necessary local emergency authority for response by issuing an Emergency Proclamation. (Refer to Tab 3)

7. If all available local resources are committed (including mutual aid) and assistance is still required, state assistance may be obtained by following the guides listed in Tab 2 to the Basic Plan, Guides for Requesting Assistance.

8. Requests for Federal assistance are made by local government by coordinating requests through the Summit County Emergency Management Agency and appropriate state departments.

D. Impact of Changing Conditions

1. Activation of the Emergency Operations Plan

a. During normal day-to-day operations, it is anticipated that local communities will operate under existing mutual aid as authorized in the Ohio Revised Code and/or special agreement or contracts for mutual aid or automatic response, as maintained by participating communities and agencies. Summit County Emergency Management Agency may be contacted if special resources or coordination are needed by the local incident commander or agency.

b. During large-scale emergencies where significant outside assistance or special resources are needed; local authorities may utilize appropriate portions of this plan. Guides for local activation of plans shall be part of each community’s emergency plan and shall be consistent with the county plan.

c. During incidents that involve multiple communities, each community shall activate their local plan as necessary in a manner similar to "b" above.
d. When resources from communities outside of Summit County are necessary, requests shall be coordinated through the Emergency Operations Center (EOC) if activated, or Summit County Emergency Management Agency. This does not apply to normal mutual aid or automatic response.

e. When resources from within Summit County are needed by surrounding counties, the requests should be coordinated with Summit County Emergency Management Agency. This does not apply to normal mutual aid or automatic response.

IV. ORGANIZATION AND ASSIGNMENT OF RESPONSIBILITIES

1. General

A. County Agreements

The County of Summit has established an Emergency Management Agency Agreement. The various political subdivisions have entered into the Summit County Emergency Management Agency Agreement.

This Agreement is attached as Tab 5. The Executive of Summit County and the Chief Executive of all or a majority of the other political subdivisions within the county have entered into a written agreement establishing a county emergency management agency.

B. Under the County organization, there is an Emergency Management Executive Committee composed of the following individuals and/or their appointed alternates:

a. Two representatives of the Executive of the County of Summit.

b. Two representatives of the Mayor of the City of Akron.

c. A Township Trustee, as elected by representatives of the Summit County Townships' Association, who are a part of this agreement.

d. A Mayor of a City or Village, as elected by representatives of the Summit County Conference of Mayors, who are a part of this agreement.
e. A Fire Chief as elected by representatives of the Summit County Fire Chiefs' Association, whose political subdivisions are a part of this agreement.

f. A Police Chief as elected by representatives of the Summit County Police Chiefs' Association, whose political subdivisions are a part of this agreement.

g. A representative of the County of Summit Engineer's Office.

h. A representative of the County of Summit Sheriff's Office.

i. A citizen-at-large representative as appointed by majority vote of the Executive Committee.

j. Summit County Emergency Management Senior Administrator shall serve as a member of the Committee without vote.

C. The primary responsibilities of the Summit County Emergency Management Executive Committee are:

a. Annually prepare budget for use of funds generated under this agreement. Said budget is to be submitted to the Executive of the County for inclusion in the County budget.

b. Annually prepare a list of goals for the work plan of the Emergency Management Agency.

c. Annually approve the per-capita charges to each community within the scope of those charges allowed in this agreement.

d. Approve the County Emergency Operations Plan and its Annexes prior to the adoption of these documents by the County Executive.

e. Approve contracts, agreements and memorandums of understanding prior to adoption of these documents by the County Executive.

f. Appoint Technical, Management and other Advisory Committees as needed.

g. Annually evaluate the progress of the Emergency Management Staff in meeting the Agency goals and report this information to the County Executive.
D. Responsibilities

The following organizations are tasked with primary and support emergency assignments. A specific accounting of assignments is found in each annex of this plan and in the Standard Operating Guideline (SOGs) developed by each organization which have emergency response and support responsibilities. The SOGs provide a detailed delineation of how assigned responsibilities are performed to support plan implementation.

1. Summit County Emergency Management Agency

   a) Primary: Annexes A: Direction and Control, B: Communications, L: Damage Assessment, M: Radiological Protection, and N: Resource Management

      1) Policy decisions for integrated emergency management
      2) Plans for comprehensive emergency management and training
      3) Coordination of all phases of integrated emergency management
      4) Direction and control at the emergency operating center
      5) Planning updates
      6) Resource management
      7) Augmentation of personnel
      8) Coordination with officials in affected jurisdictions
      9) Communications
      10) Radiological Protection
      11) Damage Assessment
      12) Exercises and drills

   b) Support:

      1) Hazardous Material response
      2) Warning
      3) Public Information and Education
2. Law Enforcement (Summit County Sheriff’s Department, Municipal, Village, and Township Police)

   a) Primary: Annexes C: Warning, E: Law Enforcement, and J: Evacuation, Anti-Terrorism Appendix C

      1) Warning
      2) Maintain law and order
      3) Identify and coordinate intelligence positions, i.e. fusion center liaisons
      4) Traffic control
      5) Area control
      6) Radiological protection
      7) Direction and Control (on scene)
      8) Evacuation
      9) Search

   b) Support:

      1) Rescue
      2) Hazardous material response
      3) Communications

3. Fire/EMS Service (Municipal, Village and Township Fire Departments)


      1) Fire response
      2) Fire code enforcement
      3) Hazardous material response
      4) Search and rescue
      5) Radiological protection
      6) Emergency medical
      7) Assistance for special needs groups

   b) Support:

      1) Direction and control (on scene)
      2) Communications
      3) Warning
      4) Traffic control
      5) Damage Assessment
      6) Terrorism Response
4. Health and Medical Service


   1) Public health programs
   2) Food and drink inspections
   3) Sanitation inspection and enforcement
   4) Hazardous materials
   5) Mortuary services
   6) Support for special needs groups

b) Support:

   1) Direction and Control
   2) Shelter operations
   3) Vector (mosquito) control
   4) Damage assessment

5. Welfare Service (Summit County Department of Human Services, Summit County Red Cross, Salvation Army, Summit County Children’s Services)

a) Primary: Annex K: Shelter and Mass Care

   1) Services for elderly and/or handicapped and others with functional needs
   2) Services for children
   3) Services in compliance with the American with Disabilities Act
   4) Services for household pets and service animals

b) Support:

   1) Mortuary Services
   2) Mental health services
   3) Mass feeding
   4) Emergency shelter operations

6. Engineering/Public Works (Summit County Engineer's Department, Municipal, Village and Township Street, Engineering and Sanitation Departments, Gas and Electric Companies, Water Departments, Telephone Companies and State/Federal organizations that may assist in emergencies)
a) Primary: Annex G (Engineering, Utilities and Public Works)

1) Water/sewer service
2) Debris clearance
3) Electric and gas services
4) Street/road/bridge construction and maintenance
5) Fuel storage
6) Augmentation (personnel and equipment)
7) Garbage removal

b) Support:

1) Damage Assessment
2) Shelter operations
3) Radiological Protection
4) Direction and control
5) Restoration of Utilities
6) Hazardous Material response
7) Communications

7. Superintendent of Schools (Summit County Superintendent's Office, Municipal Offices of Superintendents)

a) Primary: Annexes D: Emergency Public Information, J: Evacuation and K: Shelter/Mass Care

1) Public education and information
2) Emergency transportation resources
3) Public shelters
4) Protection of school children

b) Support

1) Food service
2) Human service operations

8. Fiscal Support (County Executive, Department of Finance and Budget, Summit County Fiscal Office)

a) Primary: Annexes A: Direction and Control, L: Damage Assessment and N: Resource Management

1) Maintain complete records
2) Resource procurement
3) Support EOC operations
b) Support:

1) Damage Assessment

9. Legal Support (Summit County Prosecutor, Summit County Bar Association, County of Summit Executive Legal Counsel)

a) Primary: Applicable to all Annexes

1) Legal assistance in all comprehensive emergency management matters
2) Enforcement of building codes

b) Support:

1) Assist with public information releases
2) Rumor control
3) EOC operations
4) Advice to public on contracts and legal matters

10. Agricultural Support (Summit County Office of The Ohio State University Extension)


1) Agriculture, Stabilization, and Conservation Service
   Damage Assessment
2) Resource management
3) Forest fire control
4) EOC operations

11. Planning Support (County of Summit Department of Development)

a) Primary: Application to all Annexes

1) Assist and coordinate comprehensive emergency management planning
2) Develop and provide essential data bases
3) Develop and maintain liaison with business and industry concerning comprehensive emergency management matters
b) Support:

1) Plan for and provide services to the elderly and handicapped
2) Resource identification and management
3) Public information and education
4) Personnel Augmentation

12. Shelter (Red Cross: Summit County Chapter)

a) Primary: Annex K: Shelter and Mass Care

1) Shelter operations
2) Reception and care
3) First aid at shelters and at scene as requested by emergency medical services

b) Support:

1) Welfare services (e.g. temporary housing, food, clothing, household goods)
2) Damage assessment (for individual needs)
3) Mortuary services

13. Ohio Emergency Management Agency

a) Primary: Application to all Annexes

b) Support: Provide support for local-level emergency operations by Summit County Emergency Management’s request to include:

1) Damage assessment
2) Welfare services
3) Law enforcement
4) Health and medical services
5) Resources (equipment, personnel, etc.)
6) Financial assistance (matching comprehensive emergency management funds)
7) Presidential disaster declaration assistance
   i. Debris removal
   ii. Emergency protective measures
   iii. Road and bridge repair
   iv. Water control measures
v. Restoration of public buildings and related equipment
vi. Restoration of public utilities
vii. Restoration of facilities under construction to pre-disaster condition
viii. Restoration of certain private, non-profit facilities and equipment
ix. Certain other public service facilities and services
x. Perimeter control

8) Training
9) Support of local EOC operations

14. Private Utilities

a) Primary: Annex G: Engineering, Utilities & Public Works

1) Restoration of essential services
2) Restoration of secondary priority services
3) Damage assessment

V. DIRECTION AND CONTROL

1. General

The mayors of cities and villages and the township trustees are responsible for policy making and coordination of emergency response within their jurisdictions.

The County of Summit Executive is responsible for the policymaking and coordination of County of Summit emergency response and activities.

Command and control of a threat or incident is a critical function that demands a unified framework for the preparation and execution of plans. Emergency response organizations at all levels of government may manage command and control activities somewhat differently depending on the organization’s history, the complexity of the crisis, and their capabilities and resources. Management of response actions must, therefore, reflect an inherent flexibility in order to effectively address the entire spectrum of capabilities and resources across the county. The resulting challenge is to integrate the different types of management systems and approaches utilized by all levels of government into a comprehensive and unified response to meet the unique needs and requirements of each incident. Summit County has adopted and will operate under the Emergency Management System.
and National Incident Management System (NIMS), unified command, for operational issues.

The Summit County Emergency Management Executive Committee is responsible for plan development and policy making for coordination of countywide response.

The mayors of cities and villages and township trustees will coordinate emergency operations from a designated Department Operations Center (DOC) within their own jurisdictions, and will select an alternate site.

The County of Summit Executive will act as leader of the countywide Emergency Operations Center for the County of Summit and countywide activities.

Emergency Operations Center Handbook describes the County EOC facilities, staffing pattern, guides and support requirements necessary to carry out this function. EOC Activation Levels Chart is also included.

The Summit County Emergency Management System is in compliance with the National Incident Management System.

VI. CONTINUITY OF GOVERNMENT

Each department of Summit County Government, and each city, village, and township and their departments are responsible for: (1) pre-designating line of succession; (2) pre-delegating authorities for the successors to key personnel; (3) making provisions for the preservation of records; (4) developing guides for the relocation of essential departments; and (5) developing guides to deploy essential personnel, equipment, and supplies.


This information is addressed in each annex of the EOP under Continuity of Government.

VII. ADMINISTRATION AND LOGISTICS

1. Administration

Administration of emergency management activities in Summit County is conducted on a daily, non-emergency basis (mitigation and preparedness phases) by the Summit County Emergency Management Agency.
During the response and recovery phases of an emergency, the emergency management program is coordinated by the Summit County Emergency Management Agency with responders and chief elected officials at the scene and in the activated EOC, when applicable, in accordance with the written guidelines set forth in this plan and in organizational SOGs.

2. Logistics

Requests for material support will be coordinated with the chief elected officials, or their designee, of the affected jurisdiction and presented to the Summit County Emergency Management Agency.

The Summit County Emergency Management Agency may present the request to the Executive Committee and the Executive Committee will approve or deny the expenditure. When immediate actions are not needed the Summit County Emergency Management Agency may present the request to the Emergency Management Executive Committee (EMEC), and the EMEC may approve or deny the expenditure.

If the expenditure is denied, it is up to the legislative authorities in the affected jurisdiction to approve or deny the expenditure.

VIII. PLAN DEVELOPMENT AND MAINTENANCE

Summit County Emergency Management Agency is responsible for ensuring that necessary changes to the EOP are prepared, coordinated, published and distributed. The Agency will forward revisions of the EOP to all affected/responsible organizations for acceptance before the final version is printed.

Each organization tasked with emergency responsibilities in this EOP is responsible for updating its portion of the plan based upon deficiencies identified by emergencies, drills, exercises and changes in government structure and emergency organizations.

All changes will be submitted to the Summit County Emergency Management Agency.

Any revisions, corrections, additions, or deletions to the EOP will be presented to the Summit County Emergency Management Executive Committee for final approval.

The intended audiences for each annex of this EOP are the responsible organizations assigned to address the emergency functions. The Summit County Emergency Management Agency will initiate an annual review of the annexes with the appropriate organizations.
This EOP will be updated to meet state and federal guidelines every four years.

1. Plan Validation

Plan validation can be achieved through the use of five different types of exercises: Orientation, Drills, Tabletop, Functional, and Full-Scale.

2. Drills and exercises

a. Orientation and Drills

Orientation seminars and functional drills will be held on an as needed basis for training of individuals who have responsibilities within this plan.

b. Orientation

Orientations are used to acquaint personnel with policies and procedures developed in the planning process, providing a general overview of the Emergency Operations Plan and its provisions. An orientation is especially effective in ensuring that emergency personnel understand their roles and it helps to clarify any complex or sensitive plan elements.

While the orientation does not normally involve any direct simulation or role playing, it is used to review plan procedures and informally apply them to potential emergency situations or past events familiar to everyone.

c. Drill

A drill is a supervised instruction period aimed at developing, testing, and monitoring technical skills necessary to perform emergency response operations. A drill may be a component of an exercise.

d. Tabletop Exercise

Tabletop exercises will be held as often as necessary to prepare for functional and full-scale exercises.

A tabletop is primarily a learning exercise that takes place in a conference room setting. Prepared situations and problems are
combined with role playing to generate discussion of the plan, its procedures, policies, and resources.

Tabletop exercises are an excellent method of familiarizing groups and organizations with their roles, and in demonstrating proper coordination. It is also a good environment to reinforce the logic and content of the plan and to integrate new policies into the decision making process. It allows participants to act out critical steps, recognizing difficulties and resolve problems in a non-threatening format.

e. Functional exercise

Functional exercises may be conducted to prepare for the Full-Scale exercise.

The functional exercise is an emergency simulation designed to provide training and evaluation of integrated emergency operations and management. More complex than the tabletop exercise, it focuses on interaction of decision making and agency coordination in a typical emergency management environment such as an EOC or command post.

All field operations are simulated through messages and information is normally exchanged using actual communications, including radios and telephones. It permits decision makers, command officers, coordination and operations personnel to practice emergency response management in a realistic forum with time constraints and stress. It generally includes several organizations and agencies practicing interaction of a series of emergency functions; such as direction and control, assessment, and evacuation.

f. Full Scale Exercise

The county will have at least one full-scale exercise, as required by the Ohio Emergency Management Agency, incorporating activation of the Emergency Operations Center and field operations of several functions.

The full scale exercise evaluates several components of emergency response and management systems simultaneously. It exercises the interaction elements of a community emergency program, similar to the functional exercise, but it is different in that it adds a field component.
A detailed scenario and simulation are used to approximate an emergency, which requires on-scene direction and operations, and also includes coordination and policy making roles at an emergency operations or department operations center. Direction and control, mobilization of resources, communications, and other special functions are commonly exercised.

3. After Action Report

An after-action report will be completed within 90 days of an exercise or event to address the effectiveness/weakness of the plan. Recommendations will be distributed to the appropriate agency for corrective actions. This process is the responsibility of the Emergency Management Agency and will be reported to the Emergency Management Executive Committee until all corrective actions have been implemented.

IX. AUTHORITIES AND REFERENCES

The following are codes, regulations, and authorities that provide the basis for this Emergency Operations Plan. These codes and regulations give the agencies involved the authority to prepare and adopt this plan into their individual agency’s standard operating guidelines.

1. Authorities

Federal

a) Civil Defense Act 1950 (PL 81-9230), as amended
b) The Disaster Relief Act of 1974 (PL 93-288), as amended
c) Emergency Planning and Community Right-to-Know Act of 1986 (Title III of SARA)
d) Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288), as amended
e) Amendments of 1988 (PL 93-288 as amended by PL 100-707)

State

a) State of Ohio Constitution, Article II, Section 42 – Continuity of Government Operations in Emergencies Caused by Enemy Attack
c) Ohio Revised Code:

Chapter 107: Governor
Chapter 161: Emergency interim government
Section 305.09: Proceedings of board of county commissioners  
Section 305.12: Liability of commissioners  
Chapter 307: Board of county commissioners - powers  
Section 311.07: General powers and duties of sheriff  
Section 313.06: Duties of coroner and deputies  
Section 315.08: Duties of county engineer  
Section 329.01: County department of job and family services – director, assistants, bonds  
Section 733.03: General powers of mayor in cities – merge of certain departments  
Section 733.23: Executive power in villages  
Section 737.11: General duties of police and fire departments  
Chapter 3701: Department of health  
Section 3709.06: Director of health may appoint health commissioner for city  
Section 3709.22: Duties of board of city or general health district  
Chapter 3750: Emergency Planning  
Section 4905.81: Duties of public utilities commission  
Section 5101.01: Referring to department or director of public welfare or human services  
Section 5101.02: Authority of director of job and family services  
Chapter 5502: Department of public safety

Local

a) Summit County Charter  
b) Summit County Resolution #90-730  
c) Summit County Emergency Management Agreement (Refer to Tab 5)

2. References:

Federal


k) Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288), as amended

l) Homeland Security Act of 2002

m) Homeland Security Presidential Directive 5

n) Post-Katrina Emergency Management Reform Act of 2006

o) Pets Evacuation and Transportation Standards Act of 2006

p) Public Health Service Act, as amended

q) Social Security Act of 1935, as amended

r) Americans with Disabilities Act of 1990

State


Local

a) Severe Weather Safety Awareness Campaign

b) Winter Safety Campaign Information Packet

c) National Fallout Shelter Survey, completed October 1990.

Nuclear Attack


e) Home Fallout Protection, 1986 Ministry of Supply and Services, Canada.


X. ADDENDUMS

Tab 1 – Summit County Table of Organization
Tab 2 - Guides for Requesting Assistance
Tab 3 - Map of Political Boundaries
Appendix A - Guides for Relocation and Safeguarding of Vital Records
Attachment 1 - Vital Records
Attachment 2 - Reprint of Chapter 128, Public Records and Records Commissions
Ohio County Commissioners Handbook, Revised 2000

XI. AUTHENTICATION

The Summit County Emergency Management Executive Committee and the Summit County Emergency Management Senior Administrator approve this Basic Plan of the Summit County Emergency Operations Plan.
TAB 1 TO THE BASIC PLAN

Summit County Table of Organization

Voters

- Clerk of Courts
- Council
- Engineer
- Executive
- Chief Fiscal Officer
- Judicial
- Prosecutor
- Sheriff
When an emergency occurs in Summit County, a municipality, or township that requires additional resources from within or outside of the county, telephone:

**SUMMIT COUNTY EMERGENCY MANAGEMENT**
175 South Main Street, Suite 103, Akron, Ohio 44308

DAY (330) 643-2558  NIGHT (330) 643-2181

AND, PROVIDE THE FOLLOWING INFORMATION:

- AREA AFFECTED
- NATURE OF ASSISTANCE
- TYPE OF EMERGENCY
- PERSON AUTHORIZING REQUEST

If state assistance is required, coordinate your request through the Summit County Emergency Management Agency, then prepare the following, additional information:

- SPECIFIC TYPE OF ASSISTANCE NEEDED
- ESTIMATE OF NUMBER OF PERSONS AFFECTED
- ESTIMATE OF DAMAGE TO PUBLIC AND PRIVATE PROPERTY
- ACTIONS TAKEN BY LOCAL GOVERNMENT
TAB 3 TO THE BASIC PLAN

MAP OF POLITICAL BOUNDARIES

Summit County
I. Purpose

The purpose of this procedure is to ensure the preservation of essential government records and to ensure government’s ability to function effectively under emergency conditions and to protect the rights and interests of citizens after the emergency is over.

II. Situation and Assumption

A. Situation

Local institutions of government, each department of county government, and each city, village and township and their departments, must survive and remain capable of carrying out their essential functions under all types of emergencies. These situations may include catastrophic peacetime disasters, subversions, or nuclear warfare. Continuity of government measures are designed to ensure that this capability is developed and maintained.

B. Assumption

1. An alternate location for safeguarding vital records has been designated and is presently not at risk.
2. Essential records have been prioritized by each government office.
3. Each government office will provide support personnel, equipment, and resources necessary for the transport and protection of vital records.

III. Concept of Operations

A. General

Responsibility for preservation of essential records ultimately lies with local government offices. Each government office must select, preserve, and provide availability of those records, which would be essential to the effective functioning of government and to the protection of rights and interests of persons under emergency conditions.

B. Phases of Emergency Management

1. Mitigation

Mitigation activities may include, but are not limited to:
a. Designate alternate location sites depending upon the various hazards facing the jurisdiction.
b. Evaluate alternate sites according to the type and severity of the hazard.
c. Assess the vulnerability of direct or secondary damage.
d. Prioritize essential records in advance.
e. Provide protection to Automated Data Systems from damage experienced by electromagnetic pulse.
f. Develop mutual agreements for the storage of vital records with surrounding jurisdictions.

2. Preparedness
Each government institution must develop guides illustrating how it will relocate records to safe areas.

3. Response
Response activities may include, but are not limited to:

   a. Label and prioritize record containers.
   b. Retain necessary documents for prudent decision-making.
   c. Secure other essential and vital records, including computer information, for safekeeping.
   d. Relocate records to appropriate location.

4. Recovery
Recovery activities may include, but are not limited to:

   a. Provide necessary assessment and recovery information as requested.
   b. Return vital records to normal operating location.
   c. Return personnel, equipment and resources to normal locations.

IV. Organization and Assignment of responsibilities

A. Organization
The function of preserving essential records will be conducted by regular public employees or officials who will assume responsibilities whenever a disaster of major proportion strikes the community. Mobilization will occur upon notification provided by the Chief Executive Officer of each government office/department/agency.
B. Responsibilities of each government office is as follows:

1. Identify, in advance, priority categories of essential records. These categories should include those records deemed essential for continuing critical government functions during an emergency and those records that are required to protect the rights and interests of citizens.

2. Label all records within the priority categories with identifiable markings. Priority of evacuation should be noted on record containers.

3. Assess the vulnerability of stored records to direct and secondary damage from various disaster threats; i.e. fire, water, chemical damages, aftershock, vandalism, etc.

4. Evaluate alternate records storage locations in light of hazard analysis.

5. Make arrangements for transportation to relocate records to alternate location if the need arises.

6. Identify and retain copies of the records that will be needed during the emergency operations by management or the emergency response team.

7. Safeguard vital computer information and records.

V. Direction and Control
The Chief Executive Officer of each government office in coordination with assigned personnel will assume direction and control of preservation of record activities.

VI. Continuity of Government
Each department of county government, and each city, village, and township and their departments are responsible for making provisions for the preservation of records. The lines of succession are as described in Standard Operating Guides maintained in each government office.

VII. Administration and Logistics
Agreements for the use of alternate location sites are in place.

Prior arrangements for transport of records have been implemented.

Guides written by each department include specific methods for assigning personnel during an emergency, and details assigned responsibilities, which support this activity.

VIII. Plan Development and Maintenance
Refer to section VIII of the Basic Plan.
IX. **Authorities and References**

Refer to section IX of the Basic Plan.

X. **Addendums**

Attachment 1 – Vital Records Checklist
Attachment 2 – Reprint of Chapter 128, Public Records and Records Commissions, Ohio County Commissioners Handbook, Revised 2011
ATTACHMENT 1 TO APPENDIX A TO THE BASIC PLAN

VITAL RECORDS*

GOVERNMENT – EXECUTIVE, LEGISLATIVE AND JUDICIAL:

1. Constitutions
2. Charters
3. Statutes & Ordinances
4. Court Records
5. Official Proceedings
6. Other Legal Records
7. Financial Records
8. Other Records, as deemed necessary

DEPARTMENT/AGENCIES/OFFICES:

1. Utility System Maps
2. Locations of Emergency Supplies & Equipment
3. Emergency Operations Plans & Guides
4. Lists of Succession
5. Lists of Regular & Auxiliary Personnel
6. Other Records, as deemed necessary

CITIZENS/INDIVIDUALS:

1. Vital Statistics Records
2. Land and Tax Records
3. License Registers
4. Papers of Incorporation
5. Other Records, as deemed necessary

*Some of these records will be required during emergency operations by management or the emergency response team while others can be stored by duplicating, dispersing, and securing in safe storage facilities.
CHAPTER 128

PUBLIC RECORDS AND RECORDS COMMISSIONS

128.01 INTRODUCTION

One of the numerous responsibilities of county elected officials is to maintain records. The number of records maintained by county government constantly increases. The proper retention, storage, transfer and disposal of records can make the job of county officials easier. In addition, transfer or disposal of outdated records can result in considerable savings of space and equipment.

Public records may be kept by any means of photostatic, photographic, film, or microfilm process or perforated tape, other magnetic means, electronic data processing, machine readable means, graphic or video display or any combination of the above which the official authorized to maintain the records deems necessary or advisable.

However, when these methods are utilized, any machines and equipment necessary to reproduce the records in a readable form must be made readily available (ORC 9.01). When any of these recording methods have been employed, the originals are to be disposed of in accordance with the guides of the county records commission.

Establishing a comprehensive county records program involves a cooperative effort between the Ohio Historical Society (OHS), the Ohio Network of American History Research Centers (ONAHRC) and county offices. Assistance is available from local records specialists of the Ohio Historical Society who will assist counties with the inventory, analysis, transfer, destruction and retention of county record.

Before any action to destroy or transfer county records can be taken, such action must be approved by the county records commission. For further information refer to OHIO COUNTY RECORDS MANUAL and the LOCAL GOVERNMENT RECORDS HANDBOOK, both published by the Ohio Historical Society and available at http://www.ohiohistory.org/resource/lgr/publications.html. These publications make recommendations concerning periods of retention for various records. In addition, the Summit County Basic Plan
website of the Ohio Historical Society includes a series of forms, the use of which is important in the administration of the law. The forms will be discussed later in this Chapter of the Handbook at: http://www.ohiohistory.org/resource/lgr/forms.html.

This Chapter will deal with a number of topics. First, it will discuss the complex issue of public records. ORC Section 149.43 defines a public record, generally requires that public records be made available to the public, and exempts certain types of records from public disclosure. Table 128-1 at the end of this chapter explains ten common myths about Ohio's public records law, answering some commonly asked questions.

Second, this Chapter will discuss the organization and functions of the county records commission. The Ohio Attorney General in conjunction with the State Auditor publishes an OHIO SUNSHINE LAWS UPDATE that contains detailed information not only on Ohio's Public Records Law, but also includes useful information on the open meetings (SUNSHINE) law, and the personal information systems law, ORC Chapter 1347, that should be referred to for a complete analysis of these issues. Applicable links for the update are http://ohioattorneygeneral.gov/Legal/Sunshine-laws and http://www.auditor.state.oh.us/services/opengov/default.html, respectively.

Finally, the Chapter will address a number of special areas of concern that public record practitioners routinely encounter including email, social security numbers, and employment or personnel records.

128.02 GENERAL PUBLIC RECORDS REQUIREMENTS

ORC Section 149.43, Ohio's basic Public Records Law, is to be interpreted liberally to facilitate broader public access to public records. The Public Records Act imposes two primary obligations upon public offices:

- Provide prompt inspection of public records; and
- Provide copies of public records within a reasonable period of time.

These obligations, in turn, provide the public with two primary rights:

- The right to prompt inspection of public records; and
- The right to copies within a reasonable period of time.

The Public Records Act evolved from the principle that Ohio’s citizens are entitled to access the records of their government. Courts have opined that the exemptions to the Public Records Act, which are discussed more fully later, should be narrowly construed (State ex rel. Warren Newspapers v. Huston (1994), 70 Ohio St.3d 619). In summary, to advance the principle of utmost access to the public, the Public Records Act is to be interpreted liberally in favor of disclosure (White v. Clinton Cty. Bd. Of Cmsrs. (1996), 76 Ohio St. 3d 416; State ex rel. Patterson v. Ayers (1960), 171 Ohio St. 369).
The law requires every public office to maintain its records in accordance with statutory requirements or record retention schedules approved by the county records commission. Records cannot be removed, transferred, destroyed or mutilated unless approved by the county records commission.

More recent legislation requires training requirements for local governments and monetary penalties for improper public record request denials. In addition, the legislation requires local government entities to update their public record retention schedules and create a public record policy and poster. In addition to samples offered by the Attorney General and Auditor of State at the aforementioned websites, CCAO has provided a sample model policy and sample forms available to commissioners. For more information, please see Section 12.15 Training and County Office Requirements.

County offices are required to promptly prepare and make available for public inspection all public records at all reasonable times during regular business hours. If the office keeps records in a non-readable form, equipment must be provided to reproduce the record in a readable form (ORC 9.01). If a person requests a copy of a public record, it must be made available at cost and within a reasonable amount of time.

Finally, a county office is required to organize its filing system so that its records can be made available within a reasonable amount of time. In addition, each county office can only make such records as are necessary to the proper and adequate documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the office and for the protection of the legal and financial rights of the state and persons directly affected by the activities of the office (ORC 149.40).

128.03 DEFINITION OF PUBLIC RECORD

As noted above, under Ohio law, a public office may only create records that are “necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and for the protection of the legal and financial rights of the state and persons directly affected by the agency’s activities” (ORC 149.40). In accordance with the Ohio Revised Code and court rulings, a record is defined as any item kept by a public office that meets all of the following:

1. Is stored on a fixed medium, (such as paper, electronic – including but not limited to e-mail, and other formats);
2. Is created or received by, or sent under the jurisdiction of a public office;
3. Documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

If any of these three requirements is absent, the item is not a “record” and therefore not a public record. It should thus be evident that the definition of records is broad enough to include most items maintained in most offices. For example, letters of correspondence and phone message slips would fall under the definition of a public record.
Furthermore, a public office generally is not required to create new records to respond to a public records request, even if it is only a matter of compiling information from existing records (State ex rel. White v. Goldsberry (1999), 85 Ohio St. 3d 153; State ex rel. Warren v. Warner (1999), 84 Ohio St. 3d 43.2).

128.04 PUBLIC RECORDS AND CONFIDENTIALITY

The concept of confidentiality of public records is a complex legal issue and counsel should always be consulted when in doubt. Generally, confidentiality means that disclosure of information is limited. If a specific provision of state or federal law makes a category of information confidential, the terms of that provision of law controls to whom and under what circumstances a record may be released.

It is generally understood that some public records "must be released", others "may be released" and others "must not be released" (OAG 80-096). Determining which of these categories will apply is made in accordance with the statutory exceptions. The following guidelines may be helpful:

1. MUST BE RELEASED---Since most county records are public records, unless one of the exceptions is applicable, the information must be released.

2. MAY BE RELEASED---Some county records do not have to be released because one of the exceptions apply, however, the release is not otherwise prohibited by state or federal law. While these records are confidential under the Public Records Law and may not be disclosed to the public at large, they must be disclosed to the person who is the subject of the information as a result of Ohio personal information systems law, commonly referred to as the privacy act that will be discussed in the next Chapter of this Handbook.

3. MUST NOT BE RELEASED---Some county records cannot be disclosed because release is prohibited by state or federal law. Sanctions may exist for the improper release of such information. This category includes adoption records without the consent of a court. A myriad of case law has also defined the exact parameters of what must not be released in this category

If a county office feels a record is exempted from disclosure the burden is on the county office to prove the exception is applicable. If some information on a document that is subject to disclosure is commingled with information that cannot be released, the confidential information may be "redacted" or obscured and the remainder must be disclosed. Where confidential information is so intertwined with information that must be released so as to reveal excepted information, the entire record can then be withheld.

Given the potential penalties a county may encounter should a public record be improperly withheld, the county prosecutor should be consulted when any public record request raises such concerns.
128.05 PUBLIC RECORDS EXCEPTION

As has been stressed, most records kept by a county are public records and must be made available to the public. ORC Section 149.43 (A), however, contains the following specific exceptions:

1. Medical records;

2. Records pertaining to probation and parole proceedings;

3. Records of unmarried minors seeking abortion and defined as confidential under ORC Sections 2151.85 and 2919.121;

4. Records pertaining to adoption proceedings, including adoption files maintained by the Department of Health under ORC Section 3705.12;

5. Information contained in the putative father registry established by ORC Section 3705.12;

6. Records pertaining to adoption proceedings that are confidential under ORC Section 3107.42 or 3107.52;

7. Trial preparation records;

8. Confidential law enforcement investigatory records (CLEIR);

9. Intellectual property records;

10. Donor profile records;

11. Peace officer residential and familial information;

12. Information maintained by a county hospital that constitutes a trade secret as defined in ORC Section 1333.61;

13. Information pertaining to the recreational activities of a person under the age of eighteen;

14. Records the release of which is prohibited by state or federal law;

15. Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under ORC Sections 307.621 to 307.629, and child fatality review data submitted by the child fatality review board to the Department of Health or a national child death review database, other than the report prepared pursuant ORC Section 307.626(A);
16. Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to ORC Section 5153.171 unless the prosecuting attorney releases such information following consultation and determination of prosecution;

17. Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under ORC Section 4751.04 or contracts under that section with a private or government entity to administer;

18. Information reported and evaluations conducted pursuant to ORC 3701.072 related to trauma centers preparedness;

19. Records listed in ORC Section 5101.29 of the Revised Code related to daycare records held by the department of job and family services or a county agency.

20. Military discharges recorded with a county recorder under ORC Section 317.24(B)(2).

The ORC contains numerous exceptions under number 14 above (release is prohibited by state or federal law) that do not appear in the text of the Public Records Law. Instead, these exceptions are contained in other sections of the ORC. A comprehensive list of these exceptions can be found in AN OHIO SUNSHINE LAW UPDATE, published by the Ohio Attorney General.

128.06 RELATIONSHIP TO THE OHIO PRIVACY ACT

Ohio's personal information systems act, commonly referred to as the "privacy act" is contained in ORC Chapter 1347. See Chapter 129 of this Handbook for detailed information about this topic. One of the common myths of county officials is that the privacy act may limit the public's right to access of records under the Public Records Law.

The fact is that the privacy act does not grant individuals the right of privacy in records kept by counties. ORC Chapter 1347 may be used to refuse the release of records only if the information is one of the authorized exceptions. The real purpose of the privacy act is to protect individuals from excessive record keeping by the county and to establish additional rights of access to information about individuals to themselves.

128.07 PUBLIC RECORD REQUESTS

As noted, all public records should be promptly prepared and made available for inspection to any person during regular business hours upon request. However, numerous issues may arise when a public records request is made upon a county office. Public record practitioners may face the following issues regarding public record requests:
Identification; format; medium; response time; copies; mail requests; and requests made by incarcerated persons.

- Identification of the Record

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If a requester makes an ambiguous or overly broad request for public records such that the office cannot reasonably identify the exact public records being requested, then the office may deny the request. However, in such case, the office must provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the office and accessed in the ordinary course of the office’s duties.

- Format of Request

The public office or the person responsible for public records may ask a requester to make the request in writing, may ask for the requester’s identity, and may inquire about the intended use of the information requested, but only after all of the following occur:

- Disclosure to the requester that a written request is not mandatory;
- Disclosure to the requester that the requester may decline to reveal the requester’s identity or intended use;
- Determination by the public office that a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability to identify, locate, or deliver the public records sought by the requester (ORC 149.43(B)(5)).

- Choice of Medium

The public records law allows a person to choose the medium upon which they would like a record to be duplicated (ORC 149.43(B)(2); State ex rel. Dispatch Printing Co. v. Morrow County Prosecutor’s Office (2005), 105 Ohio St. 3d 172.) The requester can choose to have the record (1) on paper, (2) in the same form as the public office keeps it (e.g., on computer disk), or (3) on any medium upon which the public office determines the record can “reasonably be duplicated as an integral part of the normal operations of the public office.”

- Response Time to Request
Public records must be available for inspection during regular business hours and made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. However, under current Ohio law, there is no defined period of time by which a public records request must be completed. Instead, appropriate (prompt and reasonable) response times will vary depending on different factors, including, but not limited to all of the following:

- The circumstances of this public office at the time of the request;
- The breadth of the request (*State ex rel. Gibbs v. Concord Twp. Trustees* (2003), 152 Ohio Appp. 3d 387);
- Whether legal evaluation of the responsive records is required before release (*State ex rel. Taxpayers Coalition v. City of Lakewood* (1999), 86 Ohio St.3d 385).

**Prohibition Against Requesters Right to Make Copies Themselves**

A requester seeking copies of public records is not permitted to make their own copies of the requested records by any means. This measure is to protect the integrity of the original document.

**Limit to Number of Requests by Mail**

The public office may limit the number of records requested by a person that the office will transmit by United States mail to 10 per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. (The scope of the word “commercial” is to 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 education research.)

**Requests by Incarcerated Persons**

Under Ohio law, an incarcerated person may receive public records, but only if the records concern a criminal investigation. The incarcerated person must also follow these very strict guidelines.

- The records must be “public records” which are not subject to an exemption from disclosure.
- The incarcerated person must have secured a finding from the judge who imposed the sentence of incarceration (or that judge’s successor) that the information sought in the public record is necessary to support a justifiable claim of the person.
Courts have denied the public records requests of inmates because this procedure was not followed (*State ex rel. Breeden V. Judge Paul Mitrovich* (2005), 2002 Ohio 7168.).

128.07 DENIAL OF PUBLIC RECORD REQUESTS

If a request is ultimately denied, in part or in whole, the public office shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. Further, if the initial request was provided in writing, the explanation shall be provided to the requester in writing. The following are scenarios in which a public record request might be denied:

- **Denial of an Ambiguous or Overly Broad Request for Public Record**

  If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the public office cannot reasonably identify what public records are being requested:

  - The public office may deny the request.
  - However, the public office shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained in the ordinary course of business.

- **Denial of a Public Record Not Maintained by the Public Office**

  If the public office receives a request for a record that it does not maintain or the request is for a record which is no longer maintained, the requester shall be so notified in writing that one of the following applies:

  - The request involves records that have never been maintained by the office (*if possible the office should direct requester to the proper office*);
  - The request involves records that are no longer maintained or have been disposed of or transferred pursuant to applicable Schedules of Record Retention and Disposition (RC-2);
  - The request involves a record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1);
  - If the record that is requested is not a record used or maintained the public office, the requester shall be notified that the office is under no obligation to create records to meet public record requests (*however, if applicable the office should inform the requestor how the information requested is organized*).
The forms referenced above are more fully described later in this Chapter of the *Handbook* and are available on the Ohio Historical Society website at: [http://www.ohiohistory.org/resource/lgr/forms.html](http://www.ohiohistory.org/resource/lgr/forms.html).

- Denial of a Public Record Maintained by the Public Office

The public office may deny a request for a record maintained by the office if the record that is requested is prohibited from release due to applicable state or federal law.

*If the record request is denied in its entirety:*

- The office or employee shall note the applicable statutory exclusion.

- The office shall consult the county prosecutor if the employee is unsure if the record requested is exempt from disclosure.

*If only part of the record is not subject to release,* the office will redact such information and release the non-exempted information.

(“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.”*):

- The office must cite the applicable exemption with the corresponding redaction.

- The office shall consult the county prosecutor if the employee is unsure if a part of the record requested is exempt from disclosure.

As custodians of public records, the public office has a responsibility to maintain the integrity of the record. As such, any request that includes redactions should be made on a copy of the original record to preserve the authenticity and accuracy of the original document.

**128.08 COSTS FOR PUBLIC RECORDS**

Generally, a requester is only required to pay this public office for the actual cost of reproduction. Employee time cannot be calculated into the “actual cost” charge. However, in some circumstances, it is permissible for the public office to have an outside contractor make copies and recover the cost of the service directly from the requester (*Huston, 70 Ohio St. 3d 619*). The public office may employ the services of a private contractor to produce copies as long as the decision to do so is reasonable (*State ex rel. Gibbs, 152 Ohio App 3d 387*). The following issues should be considered by a public office in establishing policy for responding to public record requests:

1. Payment in Advance

Summit County Basic Plan 2017
The public office may require a requester to pay in advance the cost involved in providing the copy of the public record, as requested. For photocopies of either letter or legal sized documents, the fee shall be (actual cost) per photocopy. If video tapes, cassette tapes, or any other type of media is requested, the fee shall be the replacement cost or reproduction cost (copying costs if outside vendor is necessary).

2. Delivery Costs to be Paid in Advance

Requesters may ask that documents be mailed or transmitted to them within a reasonable period of time after the office receives the request for a copy. The public office may require the person making the request to pay in advance the cost of postage if the copy is transmitted by U.S. mail or the cost of delivery if the copy is transmitted other than by U.S. mail, and to pay in advance the costs incurred for other supplies (envelope, etc.) used in the mailing, delivery, or transmission.

128.09 PENALTIES FOR PUBLIC RECORDS VIOLATIONS

Public officials may not remove, destroy, transfer, mutilate, or otherwise damage records contrary to the law or they are subject to civil actions in the common pleas court. In these cases public officials may be subject to two types of civil actions:

1. An action to enjoin the official, including the payment of attorney fees of the plaintiff.

2. An action for forfeiture of $1,000 plus attorney fees by a plaintiff.

A person may also file a mandamus action against any public official for the failure to allow inspection or failure to provide copies of public records. Again, in a mandamus action, attorney fees may be awarded at the discretion of the court.

H.B. 9, enacted in 2007 by the 126th General Assembly, allows courts to award court costs to aggrieved parties and in some instances the award of statutory damages and attorney fees for non-compliance with the Public Records Law. Following is a summary of these provisions of law:

1. Court Costs

The law provides that if the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with the Public Records Law, the court must determine and award to the aggrieved party all court costs.

2. Statutory Damages and Attorney's Fees

The law provides that if a requestor transmits a written request by hand delivery or certified mail and the public office or the person responsible for public records
failed to comply with an obligation in accordance with the Public Records Law a court may award statutory damages fixed at $100 for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with the Public Records Law, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of $1,000. (However, please note that courts have found that a “record” may be a single document within a larger file of documents as well as a compilation of documents” and therefore a fine may be levied for every single page (Kish v. Akron, 109 Ohio St. 3d 162, 2006-Ohio-1244).

The court must award reasonable attorney's fees when either of the following applies (R.C. 149.43(C)(2)(b)):

a. The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under the Public Records Law.

b. The public office or the person responsible for the public records promised to permit the requestor to inspect or receive copies of the public records requested within a specified period but failed to fulfill that promise within that specified period.

However, the court may reduce or not allow an award of statutory damages or attorney’s fees if the court determines both of the following:

a. That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with the Public Records Law and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with that Law;

b. That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (a), above, would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

128.11 MEMBERS OF COUNTY RECORDS COMMISSION

Each county has a county records commission composed of the following:
1. One member of the Board of County Commissioners,

2. Prosecuting Attorney,

3. County Auditor,

4. County Recorder, and

5. Clerk of Courts.

The member of the county commissioners serves as the chair of the county records commission (ORC 149.38).

128.12 POWERS AND DUTIES OF RECORDS COMMISSION

The following are the major powers and responsibilities of the county records commission:

1. To appoint a secretary who may be a member of the commission or any other individual;

2. To employ an archivist or records manager if the need exists;

3. To meet at least once every six months and upon the call of the chair;

4. To provide rules for the retention and disposal of county records;

5. To review applications for one-time records disposal (RC-1) and to review schedules of records retention and disposal (RC-2) submitted by county offices. It may also at any time review any previously approved schedule and revise it (ORC 149.38).

128.13 RECORDS DISPOSAL PROCEDURE

There are three operative forms used in the records disposal process. These include the following:

1. The RC-1 is an application for one-time disposal. In using an "Application for One-Time Records Disposal," an office requests permission to destroy or transfer particular records covering only specified dates. This is especially useful for destroying or transferring obsolete records.

2. The RC-2 is a record retention schedule. A "Schedule of Records Retention and Destruction" is designed to implement an ongoing records management program.
The schedule would describe how long a record is to be retained, rather than listing the specified dates or records to be destroyed.

3. The RC-3 is a “Certificate of Disposal” and must be approved by the Ohio Historical Society and State Auditor before any record may be destroyed. These three forms are available on the web site of the Ohio Historical Society at: http://www.ohiohistory.org/resource/lgr/forms.html.

The following steps should be followed when disposing of records:

1. The office desiring to dispose of records should submit a disposal request to the county records commission. When the county records commission has approved any county application for one-time disposal of obsolete records (RC-1) or any schedule of records retention and disposition (RC-2), the commission shall send that application or schedule to the Ohio Historical Society (OHS) for its review.

2. The Ohio Historical Society shall review the application or schedule within a period of not more than 60 days after its receipt. Upon completion of its review, the OHS shall forward the RC-1 or RC-2 to the State Auditor for approval or disapproval.

3. The State Auditor shall approve or disapprove the application (RC-1) or schedule (RC-2) within a period of not more than 60 days after receipt of it.

4. Before public records are to be disposed of pursuant to an approved RC-1 or RC-2, the county records commission must also file a certificate of disposal (RC-3) with the OHS.

5. OHS has 15 business days to select for its custody those records it considers to be of continuing historical society.

6. Upon the expiration of the 15 day period, the county records commission also shall notify public libraries, the county historical society, state universities, and other institutions that have provided the commission with their name and address for these notification purposes, that the commission has informed the OHS of records disposal and, upon written agreement with the OHS, such institutions may select records of continuing historical value.

Tables 128-2 and 128-3 provide flow charts for the public record retention and disposition process.

In addition, the rules of the county records commission shall include a rule that requires any receipts, checks, vouchers, or similar records pertaining to expenditures from the delinquent tax and assessment collection fund (DTAC) or furtherance of justice fund (FOJ) be retained for at least four years.
128.14 TRANSFER OF RECORDS

The execution of a written agreement is necessary to transfer records, and they may only be transferred to organizations capable of meeting accepted archival standards for the housing and use of the documents.

Some records may be transferred to a regional records center that serves all counties in Ohio. If they are transferred to one of the seven members of the Ohio Networks of the American History Research Center locations, the county records will be arranged by county office and will be available to all persons on the same basis as before transfer to the center. Refer to Table 128-4 for a listing of these centers.

128.15 TRAINING AND COUNTY OFFICE REQUIREMENTS

H.B. 9 (126th General Assembly) placed a number of training and associated requirements upon local governments. The legislation requires local governments to adopt public records policies, update their record retention schedules, create public records posters, and also further established public records training requirements of local elected officials or their designees.

CCAO has provided county officials with a public records policy that is user-friendly for potential practitioners as well as the public. It is, of course, a careful balance between an all-inclusive guide to public records law, including all known exemptions, and a workable guide utilizing layman’s terms. As the guide mentions, local governments and agencies will want to work with their County Prosecutor to familiarize themselves with exemptions and case law that are applicable to the records they maintain. For a copy of the CCAO model policy, please use the following link: http://www.ccao.org/LinkClick.aspx?link=0709+Model+Public+Records+Policy.pdf&tabid=283&mid=1023&language=en-US.

Of course, training requirements play an extremely large role in fulfilling the requirements of HB 9. All elected officials or their appropriate designees are required to attend public records training approved by the Attorney General. Elected officials may designate anyone to attend the training on their behalf. CCAO recommends doing so by resolution for audit purposes. The training must be for three hours every term of office for which the elected official was appointed or elected to the public office. The Attorney General’s office has begun posting times and locations for such training seminars on their website at: http://www.ohioattorneygeneral.gov/Legal/Sunshine-Laws/House-Bill-9-Certified-Training. In addition, the State Auditor’s office also provides the approved training. For a list of such training sessions, please use the following link: http://www.auditor.state.oh.us/conferences/hb9/default.html.

128.16 EMAIL
E-mail messages must be analyzed like any other items to determine if they meet the definition of a record. As electronic documents all e-mails are items containing information stored on a fixed medium (the first part of the definition). If an e-mail is received, created by, or comes under the jurisdiction of a public office (the second part of the definition), then its status as a record depends on the content of the message. If an e-mail created by, received by, or coming under the jurisdiction of a public office serves to document the organization, functions, etc. of the public office, then it meets the three parts of the definition of a record. If an e-mail does not serve to document the activities of the office, then it does not meet the definition of a record.

Although the Ohio Supreme Court has not ruled directly on whether communications of public employees to or from private e-mail accounts that meet the definition of a record are subject to the Public Records Act, the issue is analogous to mailing a record from one’s home, versus mailing it from the office - the location from which the item is sent does not change its status as a record.

It is important to note that email records, like all other records, must be maintained in accordance with the office’s relevant records retention schedules. In State ex rel. Toledo Blade Co v. Seneca County Board of Commissioners the Court ordered the county to recover the content of requested e-mails that had been deleted by the commissioners at a considerable cost to the county (120 Ohio St. 3d 372).

128.17 SOCIAL SECURITY NUMBERS

Social Security Numbers (SSNs) should be redacted before the disclosure of public records, even court records. The Ohio Supreme Court has held that while the federal Privacy Act (5 U.S.C. § 552a) does not expressly prohibit release of one’s SSN, the Act does create an expectation of privacy as to the use and disclosure of the SSN (State ex rel. Beacon Journal Publ’g Co. v. City of Akron, 70 Ohio St. 3d 605, 607).

Any federal, state, or local government agency that asks individuals to disclose their SSNs must advise the person: (1) whether that disclosure is mandatory or voluntary and, if mandatory, under what authority the SSN is solicited; and (2) what use will be made of it (Privacy Act of 1974, Pub. L. No. 93-579, 88 Stat. 1896 (5 U.S.C. § 552a (West 2000)). In short, a SSN can only be disclosed if an individual has been given prior notice that the SSN will be publicly available.

However, the Ohio Supreme Court has ruled that 9-1-1 tapes must be made immediately available for public disclosure without redaction, even if the tapes contain SSNs (ex rel. Dispatch Printing Co. v. Morrow County Prosecutor’s Office, 105 Ohio St. 3d 172). The Court explained that there is no expectation of privacy when a person makes a 9-1-1 call. Instead, there is an expectation that the information will be recorded and disclosed to the public. Similarly, the Ohio Attorney General has opined that there is no expectation of privacy in official documents containing SSNs (1996 Ohio Op. Att’y Gen. No. 034).
The Ohio Supreme Court’s interpretation of Ohio law with respect to release and redaction of SSNs is binding on public offices within the state. However, a narrower view expressed by a 2008 federal appeals court decision is worth noting, as it may impact future Ohio Supreme Court opinions regarding the extent of a person’s constitutional right to privacy in his or her SSN. In *Lambert v. Hartman*, the U.S. Sixth Circuit Court of Appeals looked to its own past decisions to find a constitutional privacy right in personal information in only two situations: (1) where release of personal information could lead to bodily harm, and (2) where the information released was of a sexual, personal, and humiliating nature (517 F.3d 433, 445 (6th Cir. 2008)). The Court explained that it would only balance an individual’s right to control the nature and extent of information released about that individual against the government’s interest in disseminating the information when a fundamental liberty interest is involved. The interest asserted in *Lambert*—protection from identity theft and the resulting financial harm—was found not to implicate a fundamental right, especially when compared to the fundamental interests found in earlier cases; i.e., preserving the lives of police officers and their family members from “a very real threat” by a violent gang and withholding the “highly personal and extremely humiliating details” of a rape.

### 128.18 EMPLOYMENT RECORDS

Public employee personnel records are generally regarded as public records. However, if any item contained in a personnel file or other employment records is not a “record” of the office, or is subject to an exception, it may be withheld. We recommend that Human Resource officers prepare a list of information and records in the office’s personnel files that are subject to withholding, including the explanation and legal authority related to each item. The office can then use this list for prompt and consistent responses to public records requests. In addition the OHIO SUNSHINE LAWS UPDATE provides a similar checklist, replicated in Table 128-5. The following items are also of importance related to employment records:

1. **Non-Records**

   To the extent that any item contained in a personnel file is not a “record,” i.e., does not serve to document the organization, operations, etc., of the public office, it is not a public record and need not be disclosed. Based on this reasoning, the Ohio Supreme Court has found that in most instances the home addresses of public employees are not “records” of the office. (*State ex rel. Dispatch Printing Co. v. Johnson*, 106 Ohio St. 3d 160). Although Ohio case law is silent on other specific non-record personnel items, a public office may want to evaluate emergency telephone numbers, employee banking information, insurance beneficiary designations, and other items maintained as employment records which may not serve to document the activities of the office. Non record items may be redacted from materials which are otherwise records.

2. **Names and Dates of Birth of Public Officials and Employees**
Pursuant to ORC Section 149.434, each public office or person responsible for public records shall maintain a database or a list that includes the name and date of birth of all public officials and employees elected to or employed by that public office. The database or list is a public record and shall be made available upon a request.

3. Resumes and Application Materials

There is no public records exception which generally protects resumes and application materials obtained by public offices in the hiring process. The Ohio Supreme Court has found that the public has “an unquestioned public interest in the qualifications of potential applicants for positions of authority in public employment” (State ex rel. Consumer News Services, Inc. v. Worthington Bd. of Educ., 97 Ohio St. 3d 58). For example, when a city board of education used a private search firm to help hire a new treasurer, it was required to disclose the names and resumes of the interviewees. The fact that a public office has promised confidentiality to applicants is irrelevant. A public office’s obligation to turn over application materials and resumes extends to records in the sole possession of private search firms used in the hiring process.

As with any other category of record, if an exception for home address, social security number, or other specific record applies, it may be used to redact only the protected information.

4. Background Investigations

Background investigations are not subject to any general public records exception, although specific statutes may except defined background investigation materials kept by specific public offices.

However, criminal history “rap sheets” obtained from the federal National Crime Information Center system (NCIC) or through the state Law Enforcement Automated Data System (LEADS) are subject to a number of statutory exceptions (ORC 109.57(D),(H); Ohio Adm. Code 4501:2-10-06(B); 42 U.S.C. § 3789g; 28 C.F.R. § 20.33(a)(3)).

5. Evaluations and Disciplinary Records

Employee evaluations are not subject to any general public records exception. Likewise, records of disciplinary actions involving an employee are not exempted. Specifically, the Confidential Law Enforcement Investigatory Records (CLEIR) exception does not apply to routine office discipline or personnel matters (State ex rel. Freedom Communications, Inc. v. Elida Community Fire Co., 82 Ohio St. 3d 578) when such matters are the subject of an internal investigation within a law enforcement agency.
6. Physical Fitness, Psychiatric, and Polygraph Examinations

As used in the Public Records Act, the term “medical records” is limited to records generated and maintained in the process of medical treatment (see “Medical Records”, below). Accordingly, records of examinations performed for the purpose of determining fitness for hiring or for continued employment, including physical fitness, psychiatric, and psychological examinations, are not exempted from disclosure as “medical records.” Similarly, polygraph, or “lie detector,” examinations are not “medical records”, nor do they fall under the CLEIRs exception when performed in connection with hiring. Note, though, that a separate exception does apply to “medical information” pertaining to those professionals covered under ORC 149.43(A)(7)(c).

While fitness for employment records do not fit within the definition of “medical records,” they may nonetheless be exempted from disclosure under the so-called “catch all” provision of the Public Records Act as “records the release of which is prohibited by state or federal law.” Specifically, the federal Americans with Disabilities Act (ADA) and its implementing regulations permit employers to require employees and applicants to whom they have offered employment to undergo pre-employment inquiry and medical examination. Information regarding medical condition or history must be collected and kept on separate forms and in separate medical files, and must be treated as confidential, except as otherwise provided by the ADA. As non-public records, the examinations may constitute “confidential personal information” under Ohio’s Personal Information Systems Act.

7. Medical Records

“Medical records” are not public records, and a public office may withhold any medical records in a personnel file. As noted above, however, only those records that meet the definition of “medical records,” i.e., that are generated and maintained in the process of medical treatment may be withheld under this exception. Note that the federal Health Insurance Portability and Accountability Act (HIPAA), does not apply to records in employer personnel files, but that the federal Family and Medical Leave Act (FMLA), or the Americans With Disabilities Act (ADA) may apply to certain personnel records.

8. School Records

Education records, which include but are not limited to school transcripts, attendance records, and discipline records, that are directly related to a student and maintained by the educational institution, as well as personally identifiable information from education records, are generally protected from disclosure by the school itself through the federal Family Educational Rights and Privacy Act (FERPA). However, when a student or former student directly provides such
records to a public office they are not protected by FERPA, and are considered public records.

9. Social Security Numbers and Taxpayer Records

Social Security Numbers (SSNs) should be redacted before the disclosure of public records. The Ohio Supreme Court has held that although the Federal Privacy Act (5 U.S.C. §552a) does not expressly prohibit release of one’s SSN, the Act does create an expectation of privacy as to the use and disclosure of the SSN. Ohio statutes or administrative code may provide other exceptions for SSNs for specific employees or in particular locations, and/or upon request.

Information obtained from municipal tax returns is confidential. One Attorney General Opinion found that W-2 federal tax forms prepared and maintained by a township as an employer are public records but that W-2 forms filed as part of a municipal income tax return are confidential.

10. Residential and Familial Information of Listed Safety Officers

As detailed elsewhere in this Chapter, the residential and familial information of certain listed public employees may be withheld from disclosure.


Courts have held that collective bargaining agreements concerning the confidentiality of records cannot prevail over the Public Records Act. For example, a union may not legally bar the production of available public records through a provision in a collective bargaining agreement.

12. Statutes Specific to a Particular Agency’s Employees

Statutes protect particular information or records concerning specific public offices, or particular employees within one or more agencies.

TABLE 128-1

THE TOP TEN PUBLIC RECORDS MYTHS
(These are not the correct answers)

1. If you don't know the answer to a records request, it's best to "Just Say No."
   In the context of a public record request, "just saying no" almost always creates more problems than it solves. In all but the most routine situations, the right response to a public records request is that "it depends"---or perhaps more properly---"we'll be happy to allow inspection or provide copies to the extent permissible as soon as our staff legal counsel has had an opportunity to review the documents."
2. **When confidential information is mixed on a page with material that isn't confidential, you don't have to turn over anything.** If a given page includes both information which must be released and information which does not have to be released, the latter must be "redacted" (usually by blacking it out) and the remainder must be disclosed. Where information exempted is "so intertwined" with the information otherwise required to be released as to reveal the excepted information from the context, the record itself, and not just the excepted information, may be withheld.

3. **Always demand a signature on the records request form.** The Public Records Act doesn't permit a public office to require that a person fill out a form before they can see records. The bottom line: a public office can ask (nicely) a person to fill out an "information request form," but it can't require that the form be filled out before the person gets to see the records. Neither does the Public Records Act require that the person put his request in a written correspondence. A request may probably be an oral one. Public record requests also must be fulfilled by United States mail if the requestor asks them to be sent by mail.

4. **A personal privacy balancing test must be applied each time a request is made for public records act.** This issue arises most commonly with respect to personnel files. The common law right of privacy in Ohio (*Housh v Peth*, 165 Ohio St. 35), is not a state law which prohibits the release of records. There is no statutory "balancing test" where an individual's right of privacy is weighed against the public's "right to know." Absent an otherwise applicable exception, such as the residential and familial information of law enforcement personnel under ORC Section 149.43(A)(7), information contained in personnel files is generally public. The balancing of competing public and private interests has been done by the General Assembly and the competing policy considerations have been factored into the exceptions to the Public Records Act.

5. **If no rule or statute requires a record to be kept, the record doesn't have to be disclosed.** The Public Records Act requires only that the record be created, received by, or come under the jurisdiction of a public office before it is subject to disclosure. The Act is not limited to records that must specifically be created or maintained under state statute or rule. The language in the Public Records Act that used to refer to records that were "required to be kept" was deleted in a 1985 amendment.

6. **If an investigation is ongoing, the investigative files are automatically closed.** Just because an investigation is ongoing doesn't mean that all of the investigatory records are exempt from disclosure. Similarly, some of the information in an "inactive" investigation, i.e., one that has not yet resulted in charges being brought, may not have to be disclosed.

7. **If information is not kept on paper, it doesn't have to be released.**
Information kept on computer disks or tapes, audio or video tape, microfilm, microfiche, or just about any other form of media imaginable is covered by the Public Records Act. Senate Bill 78 of the 123rd General Assembly, which became effective in December 1999, allows record requesters to receive records either 1) on paper; 2) in the same medium in which the office keeps the record; or 3) in any other medium requested that the office determines can be provided “as an integral part of normal operations.”

8. **A settlement agreement can require that records be treated as confidential.**

   Parties to a public contract---including a settlement agreement---cannot nullify the Public Record Act's guarantees of public access to public records. A public office's assurance of confidentiality, alone, cannot protect documents from public disclosure. Absent a statutory exception, a "public entity cannot enter into enforceable promises of confidentiality with respect to public records."

9. **If you don't need a record, just "pitch it."** Records must only be destroyed in accordance with properly approved record retention schedules. If no retention schedule addresses a given classification of records, the records cannot be destroyed until the schedule is appropriately amended.

10. **If this kind of request has come through the office before, you don't need to bother legal counsel.** All too often, counsel's advice from years ago gets handed down from generation-to-generation and slowly becomes ingrained as "departmental policy." The problem with this is that the Public Records Act has been amended and interpreted so often that last year's---or even last months---right answer may be today's wrong answer.