

ORDINANCE NO. 13-07
CITY OF CENTERVILLE, OHIO

Sponsored by Council Member Douglas C. Cline on the 17th day of September, 2007.

**AN EMERGENCY ORDINANCE ADOPTING THE
CITY OF CENTERVILLE PUBLIC RECORDS
POLICY.**

WHEREAS, the request for public records and the copying thereof have been governed by Chapter 149 of the Ohio Revised Code; and

WHEREAS, the Governor of the State of Ohio signed Sub.HB 9 on December 27, 2006 amending Chapter 149 of the Ohio Revised Code; and

WHEREAS, Section 149.43 of the Ohio Revised Code as amended by Sub. HB 9 requires all public offices to adopt a public records policy, for responding to public records requests in compliance with the public records law; and

WHEREAS, Sub. HB 9 goes into effect on September 29, 2007; and

WHEREAS, Centerville City Council would now like to adopt a written policy for the processing of requests for inspection and duplication of public records as required by Sub. HB 9.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. The City hereby adopts the official Public Records Policy for the City of Centerville as set forth in Exhibit "A" attached hereto and incorporated herein. A copy of such Policy shall be placed in the Office of the City Clerk.

Section 2. Pursuant to O.R.C. Section 149.43 (E), a copy of such Public Records Policy shall be included in the Personnel Manuals for the City of Centerville and the Golf Club of Yankee Trace and be incorporated therein.

Section 3. This Ordinance is hereby declared to be an emergency measure and shall become effective immediately upon passage. An emergency affecting public health, safety and welfare is hereby declared to exist by virtue of the fact that requests for inspection and duplication of public records are addressed in accordance with the new State law effective September 29, 2007.

PASSED THIS 17th day of September, 2007.

C. Mark Keegan

Mayor of the City of Centerville, Ohio

ATTEST:

Debra A. James

Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 13-07, passed by the Council of the City of Centerville, Ohio on the 17th day of September, 2007.

Debra A. James

Clerk of Council

Approved as to form, consistency with existing ordinances, the charter and constitutional provisions.

Department of Law
Scott Liberman
Municipal Attorney



City of Centerville Public Records Policy

I. Purpose

The City of Centerville maintains many records that are used in the administration and operation of the City. In accordance with State law and the City's Records Commission, the City has adopted schedules of records retention and disposition (RC-2) that identify these records. These schedules list records that are stored on a fixed medium (paper, computer, film, etc.) that are created, received, or sent under the jurisdiction of the City and document the organization, functions, policies, decisions, procedures, operations, or other activities of the City. The records maintained by the City and the ability to access them are means to provide trust between the public and the City.

II. Scope

The Clerk of Council is the official Public Records Custodian of all records which are centrally maintained by the City. Department heads are the official custodians of all records maintained within their departments. However, with the exception of police department records, all public records requests must be directed to the Public Records Custodian. Requests for records from the police department may be made directly to the police records custodian.

Public records requests will be accommodated during regular business hours between 8:00 a.m. and 4:30 p.m. on regular business days. Public records requests will not be accepted on weekends or holidays.

III. Inspection

All public records maintained by the City shall be promptly prepared and made available for inspection to any person during regular business hours. Prompt inspection and copies of records within a reasonable amount of time contemplates the opportunity for legal review. The time for compliance with a request for public records will depend upon the availability of records, the manner in which they are kept, and the volume of records requested.

A public records request may be written or verbal. The Public Records Custodian may ask the requester to put a verbal request in writing, may ask for the requester to give identifying information, or may inquire about the intended use of the information; but a written request is not mandatory, identifying information is not required and the intended use does not have to be disclosed. However, providing such information would benefit the requester by enhancing the ability of the Public Records Custodian to identify, locate and deliver the public records requested.

Public records can be accessed by one of the following methods: a request to view public records in person; a request for copies of public records that the requester will personally pick up from the Public Records Custodian; or a request for copies of public records that the requester wants to have mailed or otherwise transmitted to the requester.

Request to view public records. The requester may make a request to view public records. The Public Records Custodian shall prepare the public records for inspection "promptly," as required by the Ohio Revised Code. The actual time required to comply with the request may depend on the circumstances (such as the location of the records, the manner kept or the volume of records requested).

Copies of public records. The requester may make a request to the Public Records Custodian to have copies of public records made.

Transmitting copies of public records. A requester may request that copies of public records be transmitted to him or her by U.S. Mail or by any other means of transmission that is available and is conducive to transmitting the public records. The cost of transmission must be paid by the requester before the public records will be provided. While the City is under no obligation to provide records in electronic format, it is the policy of the City to provide information to the public in the most practical and convenient manner, considering all of the circumstances. Therefore, if the City receives a request for information to be made available in an electronic format, such request will be forwarded to the Public Records Custodian for a determination as to whether such information will be generated and released in an electronic format.

IV. Fees and Payment

Public Records will be provided at the actual cost of copying or reproducing the records. The requester shall also pay the actual cost (postage) of delivery and other supplies used in the mailing, delivery or transmission of the public record. Payment for public records requests must be made prior to the actual copying of the records.

Copies made on letter or legal size paper are \$0.05 per page. If the Public Records Custodian uses an outside copying service to make the copies, the requester will be required to pay the cost of the entire copying job, as billed by the copying service. Copies that are requested in some format other than normal letter or legal paper will be "at cost," without taking into account employee time spent preparing the copies. (For example, public records in electronic format placed on a CD will be assessed the cost of the CD, plus the cost, if any, of creating the electronic copies.)

Public records will only be copied by the Public Records Custodian or other authorized officers, employees or representatives. The Public Records Custodian may use an outside copying service to make the copies, at the Public Records Custodian's discretion. Under no circumstances will the requester be permitted to make the copies himself or herself. The manner of copying is at the discretion of the Public Records Custodian. Requests to copy a certain number of public records on a given page, by "reducing" copy size or otherwise, may be met at the discretion of the Public Records Custodian.

If fewer than 20 pages of copies are requested, no fee will be charged. If the request exceeds 20 pages, the fee will be \$0.05 per page for all pages copied.

V. Denial of a Public Records Request

Under certain circumstances, records are not defined as "public records" under Ohio law. In these situations, the public record request will be denied on that basis. The Ohio Revised Code requires that any denial be supported by legal authority. A denial that is responding to a written public records request will also be given in writing. Written reasons for denial will not be required for verbal public records requests. Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority, unless federal or state law authorized or requires the redaction.

The Ohio Revised Code regards certain actions as being "denials" of public record requests. These situations are handled as follows:

Redaction. The Ohio Revised Code defines a "redaction" as "obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a 'record' in section 149.011 of the Revised Code." Examples of redaction are "blacking out" or "whiting out" or "cutting out" portions of a document.

When a public record contains information that is not within the definition of a "public record" as defined by law, the Public Records Custodian will make available that portion of the public record that does meet the definition of a "public record." The Public Records Custodian shall make a copy of the public record, perform the redaction, then make a copy of that sheet and make the second copy available to the requester. The requester will not be charged for the first copy made. If practical, the first copy will be retained by the Public Records Custodian.

Requests that are ambiguous, overly broad, or are difficult to identify the public records requested. At times, a requester may make a public records request from which the Public Records Custodian cannot determine which the public records are being sought. In such circumstances, the Public Records Custodian will inform the requester that the public records request is denied but will give the requester an opportunity to more accurately describe the public records sought. If the requester is seeking public records organized in a certain way, but the public records are not organized in that way, the Public Records Custodian will inform the requester of the manner that the public records of the office under discussion are maintained and accessed. The requester may then submit a public records request that more accurately reflects the actual organization of the public records sought.

VI. Compliance

The Public Records Custodian reserves the right to consult with legal counsel prior to the release of any public records. This is to allow the City to comply with laws regarding the release of certain records.

VII. Failure to respond to a public records request

The City recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the City's failure to comply with a request may result in a court ordering the City to comply with the law and to pay the requester's attorney's fees, court costs and damages.