

North Canton City Council
Personnel and Safety Committee

Ordinance No. 25 - 2015

An ordinance repealing and replacing the City of North Canton's Public Record Policy, Ordinance No. 139-07, and declaring the same to be an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

Section 1. That the Public Records Policy of the City of North Canton, Ordinance 139-07, be, and the same is hereby repealed and replaced to read as follows:

A. MISSION STATEMENT.

The City believes openness and transparency leads to a better-informed citizenry, which leads to better government, and better public policy. Consistent with the premise that government—at all levels—exists first and foremost to serve the interests of the people, the City's mission and intent is to fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act, R.C. 149.43 et seq., as may be amended from time to time.

B. DEFINING PUBLIC RECORDS.

All City records are public unless they are exempt from disclosure under federal or Ohio law. All public records shall be organized and maintained in such a way that they are available for inspection and copying.

A record is defined as a document, in any format, that is created, received, or comes under the City's jurisdiction, and which documents the City's organization, functions, policies, decisions, procedures, operations, or activities.

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

C. RESPONSE TIMEFRAME.

Public records are available for inspection during regular business hours, with the exception of published holidays. Public records shall be made available for inspection promptly. Copies of public records shall be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; staffing levels; the proximity of the location where the records are stored; the necessity for any legal review and redaction of the records requested; and other facts and circumstances of the records requested.

D. RESPONDING TO REQUESTS.

No specific language is required to make a request for public records. The requester must at least, however, identify the records requested with sufficient clarity to allow the City to identify, retrieve, and review the records. If it is not clear what records are requested, the City shall contact the requester for clarification, and shall assist the requester in revising the request by informing the requester of the manner in which the office keeps its public records.

A records request need not be in writing, and the requester does not have to provide the requester's identity or the intended use of the requested public record. However, Ohio law permits the City to ask for a written request, the requester's identity, and/or the intended use of the information requested, but only (1) if a written request or disclosure of identity or intended use would benefit the requester by enhancing the City's ability to identify, locate, or deliver the public records that have been requested; and (2) after informing the requester that a written request is not required and that the requester may decline to reveal the requester's identity or intended use of the requested records.

The City must examine each public record request under both state and federal law, which are subject to constitutional and statutory law amendments and enactments, and an evolving common law. Therefore, a City employee who

receives a public record request must advise the Law Director and Administration office without delay. The Law Director shall assist the employee in evaluating and responding to the request. The Administration office shall transmit the City's response to the request and track it for compliance and efficiency by maintaining a log of each public records request together with a copy of the response, and shall be responsible to deliver the City's response to the requester.

An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying. And although the City is not obligated to create new records or perform new analysis of existing information to satisfy a public record request, it may accommodate a requester by generating new records when it is practical under the circumstances.

In processing a request for inspection of a public record, a City employee must accompany the requester during the inspection to make certain original records are not removed, altered, or destroyed. A copy of the most recent edition of the Ohio Sunshine Laws manual is available via the Attorney General's internet website (www.ohioattorneygeneral.gov) for the purpose of keeping employees and the public educated as to the City's obligations under the Ohio Public Records Act, Open Meetings Act, records retention laws, and Personal Information Systems Act.

D. ELECTRONIC RECORDS.

Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device, are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of this office are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.

E. DENIAL OR REDACTION OF RECORDS.

If a requester makes an ambiguous or overly broad request or has difficulty in making a request for public records, the request may be denied, but the City must provide the requester an opportunity to revise the request by informing the requester of the manner in which the City maintains and accesses records.

A denial of a public records request must include an explanation and the legal authority. If the initial request was made in writing, the explanation shall also be in writing. If portions of a requested record are public and portions are exempt, the exempt portions shall be redacted and the rest released. The City shall make the redaction plainly visible, and each redaction must be accompanied by a supporting explanation, including the legal authority.

Ohio's General Assembly has passed a number of laws that protect certain records by requiring or permitting a public office to withhold them from public release. If the City invokes one of these exceptions, it may only withhold a record or part of a record clearly covered by the exception, and it must tell the requester the legal authority it is relying on to withhold the record.

F. COPYING AND MAILING COSTS.

Those seeking public records may be charged only the actual cost of making copies, not the labor cost. Currently, the established cost to reproduce records is as follows:

1. The cost for black and white photocopies is three cents (\$.03) per single-sided sheet; the cost for two-sided black and white photocopies is six cents (\$.06) per sheet.
2. The cost for color photocopies is 13 cents (\$.13) per single-sided sheet; the cost for two-sided color photocopies is 26 cents (\$.26) per sheet.
3. The cost for a black and white digital scan of a document is one cent (\$.01) per page. The cost for a color digital scan of a document is nine cents (\$.09) per page.
4. For discs, video, or cassette tapes, the fee shall be the replacement cost for the requested medium. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the requested copies.

5. Persons requesting photographs pursuant to this policy shall be charged the actual cost incurred by the City for the reproduction of the photographs.
6. For any other type of media, the fee shall be the replacement or reproduction cost for that particular media.
7. The cost of copies shall be analyzed and updated from time-to-time as the cost of reproducing records changes.
8. Established costs and fees under this policy shall be clearly posted and visible to the public.

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

If a requester asks that documents be delivered, the requester may be charged the actual cost of the postage and mailing supplies, or other actual costs of delivery.

G. DELIVERY METHODS.

A requester may personally pick up requested copies of public records, or may send a designee, after having providing the applicable record custodian notice of the designation. Based upon the requester's choice, the City's Administration office shall transmit copies of public records via the U.S. mail, or by any other reasonable means of delivery or transmission available to City. Copies of public records may be transmitted by e-mail if the City maintains the records electronically, or it determines that it reasonably can duplicate the requested records into electronic form as an integral part of its normal operation.

H. MANAGING RECORDS.

City records are subject to records retention schedules. The City's current schedules are available at City Hall, a location readily available to the public as required by Ohio Revised Code 149.43(B)(2).

I. ENFORCEMENT AND LIABILITIES.

There are several options available to a person who feels that a public office has failed to comply with an obligation of the Public Records Act. The requester may contact the City Law Director to raise an objection. The requester may engage in elective mediation offered by the Ohio Attorney General, if said mediation is available. The requester may file a mandamus lawsuit. In this type of lawsuit, the requester will have the burden of showing that the requester made a proper public records request, and the public office will have the burden of showing the court that it complied with the obligation(s) allegedly violated. If it cannot, the court will order the public office to provide an improperly withheld record, and the public office may be subject to a civil penalty and payment of attorney fees.

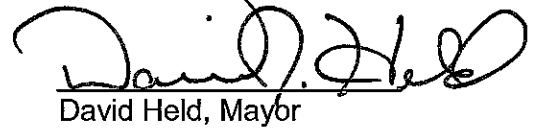
J. POLICY POSTING AND DISTRIBUTION.

The City's Administration office shall create a poster describing the above policy and post it in a conspicuous place in City Hall, Station 1 - Fire Division, Station 2 - EMS Division, the Service Center, the Water Treatment Plant, and the Civic Center. This policy shall be included in the employee handbook, and the record custodian for each City department that maintains public records shall acknowledge, in writing, receipt of this policy.

- Section 2. That any and all legislation inconsistent herewith, including Ordinance No. 139-07 be, and is hereby repealed.
- Section 3. That if a provision of this ordinance is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this ordinance.
- Section 4. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and peace of the City of North Canton, and further necessary to promptly update and refresh public

record policies and publications, and educate all City employees regarding Ohio's Public records Act, together the City's policy to comply or exceed therewith; wherefore, provided it receives the affirmative vote of six or more members of Council elected thereto, this ordinance shall take effect and be in full force immediately upon its adoption by Council and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

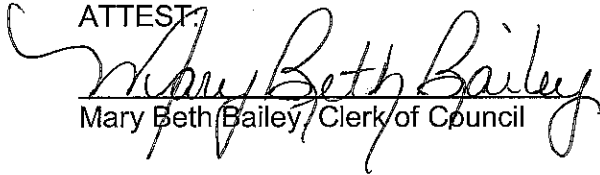
Passed by Council this 27th day of April, 2015



David Held, Mayor

Signed: 4-28, 2015

ATTEST:



Mary Beth Bailey, Clerk of Council