

ROSS TOWNSHIP PUBLIC RECORDS REQUEST AND RETENTION POLICY

Open Records Mission Statement

Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is our mission and intent to at all times fully comply with and abide by both the spirit and the letter of Ohio's Open Records Act and Open Meetings Act.

Statement of Principles

In order to accomplish the mission of fully complying with both the letter and spirit of the Open Records and Open Meetings Acts, Ross Township hereby incorporates the following Statement of Principles:

Ross Township:

- Will ensure that appropriate personnel become and remain fully trained in and aware of the provisions of the Acts;
- Will encourage employees to immediately report incidents of non-compliance to their immediate supervisor.
- Will do nothing that abridges the public's right to obtain information about their government or that inhibits or discourages citizens from doing so;
- Will do everything possible to aid those who are seeking information, including but not limited to, fully explaining the scope and operation of the Acts and assisting citizens in the formulation of requests;
- Will construe the provisions of the Acts in a manner that favors compliance with requests for information;
- Will seek guidance from its legal counsel and/or Butler County Prosecutor's Office, or may reach out to the Office of the Ohio Attorney General, whenever a question arises about the application of the Acts or about the appropriateness of a request for information;
- Will clearly and concisely state the reason or reasons why a request for information has been denied.

Introduction

It is the policy of the Ross Township Board of Trustees that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the Ross Township Board of Trustees to strictly adhere to the State of Ohio's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request will be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation will also be in writing. Ross Township reserves the right to amend this Policy from time to time, as required, to keep pace with revisions to the Ohio Public Records Law.

Article I. Definitions & General Administrative Requirements

Section 1.01 Definition of Public Record

Ross Township, Butler County, Ohio, in accordance with the Ohio Revised Code, defines the term “Public Record” as including the following: Any document – paper, electronic (including, but not limited to, email), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of Ross Township agencies. All records of Ross Township are public unless they are otherwise exempt from disclosure, as enumerated within the Ohio Revised Code or Ohio legal authority.

Section 1.02 Records Retention & Organization

It is the policy of Ross Township that all records subject to disclosure, including email, as required by Ohio law, will be organized and maintained so that they are readily available for inspection and copying. Record retention schedules are to be updated regularly and shall be posted conspicuously.

Article II. Processing Requests for Public Records

Each request for public records should be evaluated for a response using the following guidelines:

Section 2.01 Identification of Public Records Request

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 designated employee(s) or agents of Ross Township to identify, retrieve, and review the records. If it is not clear what records are being sought, the Township will contact the requester for clarification and will assist the requestor in revising the request by informing the requestor of the manner in which the Township keeps its records.

Section 2.02 Transmittal of Request to Agency – No Identification Required

The requester shall not be required to put a records request in writing and shall not be required to provide his or her identity or the intended use of the requested public record. However, in certain instances, individuals requesting public records may voluntarily provide his/her identity and/or contact information in order to assist Ross Township staff in complying with the public records request.

Section 2.03 Inspection & Processing of Records Request

Public records shall be made available for inspection during regular business hours at the offices of the respective Ross Township department, with the exception of published holidays. Public records shall be made available for inspection promptly; however, not all records are available for inspection upon demand. Records must often be reviewed and non-public information redacted before inspection can be permitted. Copies of public records will be made available within a reasonable period of time following the request. The determination of the terms “promptly” and “reasonable” take into account the volume of records requested, the proximity of the location where the records are stored, the medium in which the records are stored, the need to redact non-public information, and the necessity for any legal review of the records requested.

Section 2.04 Responding to Public Records Requests

Each request for public records will be evaluated for an estimated length of time required to gather the records requested. Routine requests for records will be satisfied immediately, if feasible. Routine requests include, but are not limited to, meeting minutes, resolutions, budgets, salary information, forms and applications, personnel rosters, etc.

A “public office” that posts records on a website for the public, “may limit to ten per month, the number of records requested by any individual (OH Substitute Senate Bill 321, 2016).

If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be readily emailed, electronically copied or downloaded easily by the requester, the aforementioned files, copies, or data will be made as quickly as Township technology allows.

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

All requests for public records to Ross Township will either be satisfied or be acknowledged in writing by the Township within three (3) business days following the receipt of the request. If a request is deemed to be beyond the scope of daily activities, such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement shall include the following information:

1. An estimated number of business days that it will take to satisfy the request
2. An estimated cost if copies are requested

Section 2.05 Denial or Redaction of Public Records

Any denial of public records requested will include an explanation, including legal authority for such denial. If portions of a record are public and portions are exempt as established within the Ohio Revised Code, the exempt portions will be redacted and the remainder of the document released to the requesting party. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority for said redaction(s).

Section 2.06 Exempt Public Records

Not all of Ross Township’s records are “public records.” Certain records are exempt from the Public Records Act. Exempt records include records: (1) the release of which is prohibited by state or federal law, or (2) that are subject to an express exception set forth in Ohio’s Public Records Act, which may be released only if Ross Township decides to waive the express exception.

Examples of records, the release of which is prohibited by state or federal law, include, but are not limited to, the following:

1. Attorney-client privileged information;
2. Records of a Certified Public Accountant or public accountant in the performance of an audit of a public office (R.C. 4701.19(B);
3. Federal tax returns (26 U.S.C. 6103(a)

4. Criminal background information and other law enforcement information on the LEADS/CCH/NCIC computer database (42 U.S.C. 3789g);
5. Records that have been sealed pursuant to a statutorily authorized court order (i.e. R.C. 2953.52);
6. Peace officer's home address during the pendency of a criminal case in which the officer is a witness or arresting officer (R.C. 2921.24(A); and
7. Employees' and their family members' records that were created for purposes of the Family Medical Leave Act or the Americans with Disabilities Act (29 CFR 825.500(g) and 1630.14(c)(1).

Examples of records that are subject to an express exception set forth in Ohio's Public Records Act, which may be released only if Ross Township decides to waive the express exception include, but are not limited to the following:

1. Peace Officer, firefighter, EMT, prosecutor, assistant prosecutor, children's services worker, or corrections officer, Residential and Familial Information (R.C. 149.43(A)(7);
2. Records that pertain to a patient's medical history, diagnosis, prognosis, or medical condition and that were general and maintained in the process of medical treatment (R.C. 149.43(A)(1)(a);
3. Records that contain information that was specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding (R.C. 149.43(A)(1)(g); and
4. Records that pertain to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature and that, if released, would create a high probability of disclosing any of the following: (1) the identity of an uncharged suspect, (2) the identity of a confidential source, (3) specific confidential investigatory techniques or procedures; (4) specific investigative work product; or (5) information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential source (R.C. 149.43(A)(2).

The exemptions to the Public Records Act will be narrowly construed in the favor of disclosure. It may be prudent to seek a legal review prior to determining whether or not an exception applies.

Article III. Transmittal & Recovery of Costs

Section 3.01 Costs For Public Records – General Procedures

Those seeking public records will be charged only the actual cost of making copies incurred by Ross Township in the process of fulfilling a specific public records request unless the public record is a video record prepared by a law enforcement agency ("police department"), or if circumstances make it reasonable for this office to hire an outside contractor to make copies of requested public records or to redact portions of the records.

If the public record is a video record prepared by the police department, the police department may charge the requestor the actual cost associated with preparing a video record for inspection or production, not to exceed seventy-five dollars (\$75) per hour of video produced, nor seven hundred fifty dollars (\$750) total. The police department may require that the requestor pay the estimated actual cost before beginning the process of preparing a video record for inspection or production. If the actual cost exceeds the estimated actual cost, the police department may charge the requestor

for the difference upon fulfilling the request for video records if the requestor is notified in advance that the actual cost may be up to twenty percent (20%) higher than the estimated actual cost, and the police department shall not charge the requestor a difference more than twenty percent of the estimated cost. (R.C. 149.43(B)(1).

If circumstances make it reasonable for this office to hire an outside contractor to make copies of requested records or to redact portions of the records, the requestor will be charged the actual cost paid to the outside contractor for the copying and redacting service. (R.C. 149.43(F)(2)(a). An invoice outlining the actual costs incurred for each item shall be prepared for the requester. Ross Township staff shall issue a receipt of payment for the requested public records to the requester. Requested records will not be released until such time that payment is received for such request, in full, from the requester.

Section 3.02 Paper Copies

- The charge for 8.5" x 11" paper copies shall be \$0.15 per page
- The charge for 8.5" x 14" paper copies shall be \$0.15 per page
- The charge for 11" x 17" paper copies shall be \$0.15 per page
- The charge for outsourced plans, prints or other documents shall be the actual costs incurred by the Township as invoiced by the designated third-party vendor

Section 3.03 Electronic Copies, Audio Recordings, & Digital Media

- The charge for downloaded computer files to a flash drive shall be the actual cost incurred by the Township per flash drive.

Section 3.04 Electronic Transmittal of Documents

There shall be no charge for documents emailed to the requestor or for files transferred to a requester via "FTP" site (file transfer protocol).

Section 3.05 Transmittal via Regular Mail or Courier Service

Requesters may ask that documents be mailed to them or delivered to them via courier service. Requesters shall be charged the actual cost of the postage and mailing supplies or the actual cost of effecting delivery via the designated courier service.

Article IV. Electronic Message Records

Documents in electronic message format may be records as defined by the Ohio Revised Code when their content relates to the business of the office.

Section 4.01 Electronic Message Records – General Provisions

Records in private email, text message, and other similar accounts used to conduct public business are subject to disclosure, and all employees or representatives of this office are instructed to retain their emails, text messages, etc. that relate to public business in accordance with Article I of this document. Records transmitted to or from private email accounts to conduct public business are subject to disclosure, and all employees or representatives of Ross Township are required to retain them in accordance with applicable records retention schedules.

Section 4.02 Retention of Electronic Message Records

The records custodian of each Ross Township department shall treat the electronic messages referenced in Section 4.01 of this Article as records of the public office, appropriately filing them, retaining them per established schedules, and making them available for inspection and copying in accordance with the Public Records Act, as amended.

Article V. Failure to Comply**Section 5.01 Remedies for Failure to Comply**

Any employee of Ross Township, including the designated Records Custodian for each Ross Township department, who willfully fails to fulfill a Public Records request by failing to follow the instructions of the appointed Records Custodian or who fails to observe the policies and procedures adopted within this document may be subject to disciplinary action as established within the Ross Township Summary of Personnel Policies.