

**FAIRFIELD TOWNSHIP
RESOLUTION NO. 17-38**

**RESOLUTION ESTABLISHING PUBLIC RECORDS POLICY
FOR FAIRFIELD TOWNSHIP.**

WHEREAS, the Fairfield Township Board of Trustees desires to adopt and establish the Public Records Policy attached as Exhibit A; and

WHEREAS, the Fairfield Township Board of Trustees believes transparency in government is a matter of great importance to the Township; and

WHEREAS, the Fairfield Township Board of Trustees believes the attached Public Records Policy is consistent with Ohio Revised Code Section 149.43 and Ohio case law;

NOW, THEREFORE, BE IT RESOLVED, by the Trustees of Fairfield Township, Butler County, Ohio, as follows;

SECTION 1: The Board of Trustees authorizes to adopt and establish the Public Records Policy for Fairfield Township which is attached hereto as Exhibit A.

SECTION 2: The Policy shall be kept on file in the Township Offices.

SECTION 3: That it is hereby found and determined that all formal actions of this Board concerning and relating to the passage of this Resolution were taken in meetings open to the public, in compliance with all legal requirements including §121.22 of the Ohio Revised Code.

SECTION 4: That the Board by a majority vote hereby dispenses with the requirement that this Resolution be read on two separate days and hereby authorizes the adoption of the Resolution upon its first reading.

SECTION 5: This resolution shall take effect at the earliest period allowed by law.

Adopted: April 26, 2017

Board of Trustees

Vote of Trustees:

Shannon Hartkemeyer: <u>Shannon Hartkemeyer</u>	<u>yes</u>
Joe McAbee: <u>Joe McAbee</u>	<u>yes</u>
Susan Berding: <u>Susan Berding</u>	<u>yes</u>

AUTHENTICATION

This is to certify that this is a resolution which was duly passed, and filed with the Fairfield Township Fiscal Officer, this 26th day of April, 2017.

ATTEST:

Nancy A. Book
Nancy Book, Fairfield Township Fiscal Officer

APPROVED AS TO FORM:

L.E. Barbieri
Lawrence E. Barbieri, Township Law Director

**FAIRFIELD TOWNSHIP, OHIO
PUBLIC RECORDS POLICY HANDBOOK**

FAIRFIELD TOWNSHIP BOARD OF TRUSTEES

Shannon Hartkemeyer

Susan Berding

Joseph McAbee

FAIRFIELD TOWNSHIP FISCAL OFFICER

Nancy Bock

FAIRFIELD TOWNSHIP LAW DIRECTOR

Lawrence E. Barbieri

Fairfield Township, Butler County, OH ADOPTED:
_____, 2017

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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.

In order to accomplish the mission of fully complying with both the letter and spirit of the Open Records and Open Meetings Acts, Fairfield Township hereby incorporates the following Statement of Principles as the foundation for its Public Record Policy Handbook:

Statement of Principles

Fairfield Township: Will enact a formal resolution memorializing the Mission Statement;

Will ensure that appropriate personnel become and remain fully trained in and aware of the provisions of the acts;

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 the legal counsel 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 Fairfield 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 Fairfield Township Board of Trustees to adhere to the State of Ohio Public Records Act. 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. Fairfield Township reserves the right to amend this Policy Handbook from time to time, as required, to keep pace with revisions to the Ohio Public Records Law.

ARTICLE I

Section 1.01 Definition of Public Record

Fairfield 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, e-mail), 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 Fairfield Township agencies. All records of Fairfield 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 Fairfield 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 within the administrative offices of all Fairfield Township agencies.

ARTICLE II

Each request for public records should be evaluated for a response using the following guidelines established within this section of the Fairfield Township Public Records Policy Handbook. All requests shall be forwarded to the Fairfield Township Fiscal Officer.

Section 2.01 Identification of Public Records Requested

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 Fairfield 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 Fairfield 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 Fairfield Township agency, with the exception of published holidays. Public records shall be made available for inspection promptly. Copies of public records will be made available within a reasonable period of time. The determination of the terms "prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; 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 web site 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, filtering, or querying features.

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, filtering, or querying features.

All requests for public records to Fairfield 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:

- A. An estimated number of business days it will take to satisfy the request
- B. 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). In every instance, Fairfield Township staff shall seek an opinion from the Fairfield Township Law Director prior to finalizing any redaction to any requested records, or prior to denying a request for public records.

Section 2.06 Exempt Public Records

Not all of Fairfield 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 Fairfield 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:

- A. Attorney-client privileged information;
- B. Records of a Certified Public Accountant or public accountant in the performance of an audit of a public office (R.C. 4701.19(B));
- C. Federal tax returns (26 U.S.C. 6103(a));
- D. Criminal background information and other law enforcement information on the LEADS/CCH/NCIC computer database (42 U.S.C. 3789g);
- E. Records that have been sealed pursuant to a statutorily authorized court order (i.e. R.C. 2953.52);
- F. Peace officer's home address during the pendency of a criminal case in which the officer

- Family
and
- is a witness or arresting officer (R.C. 2921.24(A)); and
- G. Employees' and their family members' records that were created for purposes of the Medical Leave Act or the Americans with Disabilities Act (29 CFR 825.500(g) 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 Fairfield Township decides to waive the express exception include, but are not limited to, the following:

- A. Peace Officer, firefighter, EMT, prosecutor, assistant prosecutor, children's services worker, or corrections officer, Residential and Familial Information (R.C. 149.43(A)(7));
- B. 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));
- C. 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
- D. 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

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 Fairfield Township in the process of fulfilling a specific public records request. Employee time should not be calculated into the charge for copying a public record. However, in the event that 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 requester 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. Fairfield 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 \$0.10 per page
- ∴ The charge for 8.5"x 14" paper copies shall be \$0.10 per page
- ∴ The charge for 11" x 17" paper copies shall be \$0.15 per page
- ∴ The charge for oversize plans, prints, or other documents shall be \$5.00 per sheet
- ∴ 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 compact disc shall be \$2.00 per disc
- ∴ The charge for DVD recordings of public meetings shall be \$5.00 per disc
- ∴ The charge for audio cassette recordings of public meetings shall be \$2.00 per cassette tape

Section 3.04 Electronic Transmittal of Documents

There shall be no charge for documents e-mailed to the requester 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.

Documents in electronic mail format may be public records as defined by the Ohio Revised Code when their content relates to the business of the office. E-mail is to be treated in the same fashion as records in

other formats and should follow the same retention schedules as other public records.

ARTICLE IV

Section 4.01 Email Records -General Provisions

Records in private e-mail, text message, twitter 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 e-mails, text messages, etc. that relate to public business in accordance with Article I of this document. Records in private email accounts shall be periodically copied to their business e-mail accounts and/or to designated email archives as determined by the office's records custodian.

Section 4.02 Retention of Email Records

The records custodian of each Fairfield Township agency shall treat the e-mails referenced in Section 4.01 of this Article as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Public Records Act, as amended.

Article V. Administration and Enforcement

Section 5.01 Remedies for Failure to Comply

Any employee of Fairfield Township, including the designated Records Custodian for each Fairfield Township agency, 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 Personnel Policy Manual of Fairfield Township, Butler County, Ohio.

Appendix

Retention Schedule Employee Receipt Acknowledgement Form

**Fairfield Township Employee Acknowledgement Receipt of Public Records
Policy Handbook**

I, hereby acknowledge that I have received a copy of the Fairfield Township Public Records Policy Handbook, and understand the provisions set forth therein. Further, I understand the consequences of failure to follow the provisions set forth within this document, including being subject to disciplinary procedures set forth within the Personnel Policy Manual of Fairfield Township, Butler County, Ohio.

Signature _____ Date _____

Print Name _____

Department/Agency _____

INSERT RECORDS RETENTION POLICY HERE