

SPONSORED BY: John Moss-Finance Dir.
REFERRED TO: Committee of the Whole
INTRODUCED BY: Brenda Hlas, Finance Chair

CITY OF NORTON **AMENDED ORDINANCE NO. 68-2009**

AN ORDINANCE ADOPTING A PUBLIC RECORDS POLICY IN COMPLIANCE WITH OHIO REVISED CODE SECTION 149.43, AND DECLARING AN EMERGENCY

WHEREAS, Ohio Revised Code Section 149.43 (E)(1) states that all public offices shall adopt a public records policy in compliance with this section for responding to public records requests; and

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Norton, Counties of Summit and Wayne, and State of Ohio:

- Section 1: The Council of the City of Norton hereby adopts the Public Records Policy set forth in **Exhibit "A"** attached hereto and incorporated herein.
- Section 2: The adopted Public Records Policy, and any future updates shall be distributed to Public Records Custodians who shall acknowledge receipt in accordance with Ohio Revised Code Section 149.43 (E)(2).
- Section 3: A poster which ~~that~~describes the adopted Public Records Policy shall be posted in a conspicuous place in the City of Norton and in all locations where the City of Norton has offices.
- Section 4: The adopted Public Records Policy shall be included in the City of Norton's established employee manual/handbook.
- Section 5: All formal actions of this Council related to this Ordinance and all deliberations of the Council and of any of its Committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code.
- Section 6: This Ordinance is declared to be an emergency measure for the immediate preservation for the public peace, health and safety of the citizens of Norton for the reason that the adoption of this policy will ensure the orderly implementation of a Public Records Policy for the City of Norton, and to enhance openness which leads to better informed citizenry. This Ordinance shall be in full force and effect immediately upon its adoption and approval by the Mayor or the earliest period provided by law.

Emergency Vote: 60 Yeas 0 Nays

Amended 7-13-09

Date passed: 7-13-09

Mike Zita
Mike Zita, President of Council

Date submitted to the Mayor 7-14-09

Attest: Karla Richards
Karla Richards, CMC-Clerk of Council

David L. Koontz
David L. Koontz, Mayor

Date approved by the Mayor 7-15-09

I, Karla Richards, CMC-Clerk of Council of the City of Norton, Summit and Wayne Counties, Ohio do hereby certify that the foregoing **Ordinance No. 68-2009** was duly and regularly passed by the Council of the City of Norton, Summit and Wayne Counties, Ohio at a meeting held on July 13, 2009.

That this legislation was posted according to law on July 17, 2009 and will become effective on July 15, 2009.

Karla Richards
Karla Richards, CMC-Clerk of Council

Prepared and approved as to legal form by Peter M. Kostoff, Law Director, City of Norton, June 17, 2009.



CITY OF NORTON PUBLIC RECORDS POLICY

Ordinance 68-2009, Exhibit A

INTRODUCTION TO PUBLIC RECORDS

It is the policy of the City of Norton that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the City of Norton to strictly adhere to the State'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 must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code.

PUBLIC RECORDS CUSTODIAN

Section 1. Public Records Custodian

All requests for public records must be directed to the authorized Public Records Custodian of the City of Norton. Requests made in person must be done during regular business hours, defined herein as 8:00 a.m. to 4:30 p.m. weekdays, excluding Saturdays, Sundays, and holidays. All public record requests made in person shall adhere to this requirement even if the public office, e.g. the division of police, is operated on a twenty-four (24) hour basis.

Section 1.1 Designation

The Public Records Custodians shall be those persons designated by the Mayor in each office of the City who are authorized to respond to or to fulfill any public records request. Any public records request made to any other employee, officer or representative of the City shall not be considered as a properly made request, and the request will be directed to the proper Public Records Custodian. The Mayor may designate Active Public Records Custodians to serve in the absence of the Public Records Custodians.

PUBLIC RECORDS

Section 2. Definition

The City of Norton, in accordance with the Ohio Revised Code, defines records 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 the office. All records of the City of Norton are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

Section 2.1 Organization and Maintenance

It is the policy of the City of Norton that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See Section 5 for the e-mail record policy). The City's record retention schedule may be amended from time to time at the discretion of the Records Commission.

PUBLIC RECORDS REQUESTS & RESPONSES

Section 3. Evaluation of a Public Records Request

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

Section 3.1 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 public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the Public Records Custodian shall contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Section 3.2 Method of Public Records Request and Identity of Requestor

A public record request may be made in writing or verbally, and the identity of the requester and/or the intended use of the information or documents requested need not be disclosed. However, the Public Records Custodian may ask that the request for public records be in writing, may ask for the requester's identity, and/or may inquire about the intended use of information or documents if such inquiry would benefit the requester by enhancing the ability of the Public Records Custodian to identify, locate, or deliver the public records sought and if the Public Records Custodian informs the requester that a written request, disclosure of identity and/or intended use is not mandatory.

Section 3.3 Availability of Public Records for Inspection and Production of Copies

Public records will be made available for inspection only during regular business hours as defined in Section 1, above. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "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 3.4 Denial of Public Records Requests

Any denial of public records requested must include an explanation, including legal authority. If the request for public records is in writing, the explanation of denial must also be in writing. 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.

COSTS FOR OBTAINING COPIES OF PUBLIC RECORDS

Section 4. Charges for Copies and Postage

Those seeking public records will be charged only the actual cost of making copies, as follows:

Section 4.1 Paper Copies

The charge for paper copies is 5 cents per page (or one-sided copy). There shall be no charge if the number of copies is 10 pages or less per calendar year. Public records will only be copied by the Public Records Custodian or other authorized officer, employee or representative. 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. The manner of making the copies is at the discretion of the Public Records Custodian. 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.

Section 4.2 Other Formats

Copies that are requested in some other format other than 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.)

Section 4.3 Transmitting Public Records

Requesters may ask that documents 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 (FedEx, UPS, fax, e-mail). The requester must pay the cost of transmitting before the public records will be transmitted.

Section 4.4 Payment

Charges for copies or for transmission of copies can be paid for in cash, or by check/money order/certified check, made payable to the City of Norton. If payment is made by check, copies will not be made until the check has cleared and been paid by the requester's bank. All charges must be paid in their entirety, in advance. A requester may pay an amount that the Public Records Custodian estimates to cover the cost of copies or means of transmission. If that amount is determined to be insufficient, the copies will not be made or transmitted until the entire amount due is paid. If the amount was in excess of the cost of the copies or means of transmission, the excess will be repaid to the requester.

E-MAIL AS PUBLIC RECORDS

Section 5. Definition of E-mail as Public Records

Documents in electronic mail format are 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.

Section 5.1 Private E-mail Accounts Holding Public Records

Records in private e-mail 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 that relate to public business (see Section 2 Public Records) and to copy them to their business e-mail accounts and/or to the Office's Public Records Custodian.

Section 5.2 Duties of the Public Records Custodian in Managing Private Account E-mails

The Public Records Custodian is to treat the e-mails from private accounts 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.

FAILURE TO RESPOND TO A PUBLIC RECORDS REQUEST

Section 6. Legal and Non-Legal Consequences

The City of Norton 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, failure to comply may also result in a court ordering the public office to comply with the law and to pay the requester's attorney's fees and damages.

City of Norton
REQUEST FOR INSPECTION OF PUBLIC RECORD

GENERAL INFORMATION: *Your completion of this form is not mandatory by law. It is suggested in order to better understand and facilitate your request—and do so in a reasonable period of time. The City of Norton employee complying with your records request is not necessarily the employee who will receive this form from you.*

Permanent records of the City furnished for inspection purposes may not be removed from the department or office where such records are stored. In accordance with **Ohio Revised Code 149.43**, the City will charge you a fee for a copy of any record.

This form is used for an inspection of City records not readily available. The form should be completed and presented to the Administrative Officer, 4060 Columbia Woods Drive, Norton, Ohio 44203. Your request will then be directed to the appropriate Department Head or Director and your request will be promptly prepared. Your request's completion is subject to time available during the regularly scheduled workday. When ready, you will be notified.

Name: _____ Date: _____

Representing: _____ Telephone: _____

Address: _____

Other Contact Info: _____

Declined to furnish above information

PUBLIC RECORDS REQUESTED FOR INSPECTION: Please be as specific as possible. Because of the diffuse nature of some City records, we cannot accept broad requests for "all records," or similar unclear language. By making your request specific, you will help us locate it as quickly as possible. Your request may take some time to research, locate and make available.

CITY OF NORTON
PUBLIC RECORDS REQUEST RESPONSE FORM

Thank you for your recent record request. The City of Norton Public Records Custodian will respond in accordance to the applicable provisions of the Ohio Public records Act.

On _____, you requested the following records/information:

The record/information requested:	Legal Authority Cited
<input type="checkbox"/> Is not maintained by this City	_____
<input type="checkbox"/> Is overly ambiguous (despite efforts to clarify).	<u>ORC 149.43 (B)(2)</u>
<input type="checkbox"/> Does not exist and/or no obligation to create.	<u>ORC 149.40</u>
<input type="checkbox"/> Has been disposed pursuant to One Time Records Disposal or pursuant to Retention Schedule.	Records Commission meeting of _____
<input type="checkbox"/> Is not subject to release in its entirety.	_____
<input type="checkbox"/> Is not subject to release, however the following redactions have been made to protect exempted information.	<u>ORC 149.43(B)(1)-(3)</u>

Redaction Legal Authority Cited

Prepared by Custodian: _____ Date: _____

Legal Reviewed by: _____ Date: _____

TRANSMITTAL FOR RECORDS REQUEST

FOR USE BY THE CITY OF NORTON

Walk-in

Letter or email

Telephone Request
(Attached)

Request Received By: _____ Date/Time Received: _____

Dept. Routed To: _____ Date/Time: _____

Completed By: _____ Date/Time: _____

Approved By (Director/Dept. Head): _____

Requesting Person Notified By: _____ Date/Time: _____

Phone Email

Date/Time Received: _____ Fee Charged: \$ _____ Paid: _____

Comments: _____

This form is for In House use only!