

ORDINANCE NO. 132-07

By: Matthew Lampke

An Ordinance to amend the Administration Code by adding a new Chapter 266 setting forth the City's public records policy in accordance with the laws of the State of Ohio.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That the Administration Code is hereby amended by the addition of Chapter 266 as follows:

CHAPTER 266
Public Records Policy

266.01 INTRODUCTION.

It is the policy of the City that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of City to adhere strictly 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. If the request is in writing, the explanation must also be in writing.

266.02 PUBLIC RECORDS.

(a) The City, 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 the City that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the City. All records of the City are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

(b) It is the policy of the City that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (see Section 266.05 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

266.03 RECORD REQUESTS.

(a) Each request for public records should be evaluated for a response using the following guidelines.

(b) 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 City to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must 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.

(c) The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is the City's

general policy to ask a requester to complete a request form, but a record request shall not be denied because the requester declines to complete the form.

(d) Public records are to be available for inspection during regular business hours. 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.

(e) Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, etc. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment and staffing allow.

(f) All requests for public records must either be satisfied or be acknowledged in writing by the appropriate City official within three business days following the City's receipt of the request. If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following:

- (1) An estimated number of business days it will take to satisfy the request.
- (2) An estimated cost if copies are requested.
- (3) Any items within the request that may be exempt from disclosure.

(g) 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.

266.04 CHARGE FOR PUBLIC RECORDS.

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

- (1) The charge for paper copies is 5 cents per page.
- (2) The charge for downloaded computer files to a compact disc is \$1 per disc.
- (3) There is no charge for documents e-mailed.

(b) Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

266.05 E-MAIL RECORDS.

(a) 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.

(b) 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 and to copy them to their business e-mail accounts and/or to the office's records custodian.

(c) The 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.

266.06 FAILURE TO RESPOND TO PUBLIC RECORDS REQUEST.

The City recognizes the legal and non-legal consequences of failure to respond properly 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 attorney's fees and damages.

Section 2. That this Ordinance shall be in full force and effect from and after the earliest period allowed by law.

Passed: 1-8-08, 2008

Matthew J. Lampke
President of Council

Attest: [Signature]
Clerk of Council

12-11-07 First Reading
12-18-07 Second Reading
1-8-08 Third Reading
passed

Approved: 1-8, 2008

John M. Brennan
Mayor