

CUYAHOGA COUNCIL OF CUYAHOGA COUNTY, OHIO

ORDINANCE NO. O2011-0003

SPONSORED BY: GREENSPAN, MILLER, BRADY, GERMANA, GALLAGHER, SCHRON, CONWELL, JONES, CONNALLY, ROGERS AND SIMON

**An Ordinance to expire ninety (90) days after its effective date, providing for the approval and adoption of a temporary Public Records Policy for Cuyahoga County, and declaring the necessity that this Ordinance become immediately effective.**

WHEREAS, the Cuyahoga County Charter provides for the transition, effective January 1, 2011, to a county governed by an elected County Executive and an eleven member elected County Council;

WHEREAS, Ohio Revised Code Section 149.43(E) requires that all public offices adopt a public records policy in compliance with R.C. 149.43 for responding to public records requests;

THEREFORE, be it hereby ordained by the Council of the County of Cuyahoga, State of Ohio that:

**Section 1. Public Records Policy.** The Public Records policy adopted by the former governing body of Cuyahoga County (attached hereto as Exhibit "A") shall remain in force and effect and shall be followed by the County Council and the County Executive for a period of ninety (90) days. The Clerk of Council is hereby designated as the records custodian for County Council. The County Executive shall separately designate a records custodian for his office.

**Section 2. Effective Date.** Provided this Ordinance receives the affirmative vote of eight of the members elected to Council, it shall take effect immediately upon the signature of the County Executive. It is hereby determined to be necessary that this Ordinance become immediately effective in order that Cuyahoga County services may continue to be provided, and so that the usual and daily operations of government may continue to function on and after January 1, 2011. This Ordinance shall expire ninety (90) days after its effective date.

**Section 3.** It is found and determined that all formal actions of this Council meeting and relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this 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.

Yeas: Greenspan, Miller, Brady, Germana, Gallagher, Schron, Conwell,  
Jones, Connally, Rogers and Simon

Nays: None

\_\_\_\_\_  
County Council President      Date

\_\_\_\_\_  
County Executive      Date

\_\_\_\_\_  
Clerk of Council pro tem      Date

Journal CC001  
January 3, 2011

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## **Public Records Policy**

### **Introduction:**

It is the policy of the Cuyahoga County Board of County Commissioners ("County Commissioners") that openness leads to a better-informed citizenry, which leads to better government and better public policy. It is the policy of the County Commissioners to strictly adhere to its obligations under the state's Public Records Law. It is also the policy of the County Commissioners that exemptions from disclosure established by federal or state law must be applied, particularly where the laws are intended to protect the rights of third parties.

### **Section 1. Public Records**

This office, 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 County Commissioners meeting this definition are public unless they are specifically exempt from disclosure under Ohio law or federal law.

#### **Section 1.1**

It is the policy of the County Commissioners that, as required by Ohio law, records will be organized and maintained so that they are available for inspection and copying in accordance with the Ohio Public Records Law. Record retention schedules shall also be made readily available to the public. Each Agency and Department of the County Commissioners shall designate a public records manager to whom requests for public records should be directed. The identity of the Agency's or Department's public records manager(s) shall be publicized, including being posted on the Agency's or Department's webpage.

### **Section 2. Record Requests**

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

#### **Section 2.1**

Although no specific language is required to make a request, the requestor 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 records custodian must contact the requestor 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.

## **EXHIBIT A**

## **Section 2.2**

The requestor 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 this office's general policy that this information is only to be requested if the written request or disclosure of identity of the requestor or the intended use of the record would benefit the requestor by enhancing the ability of the County Commissioners to identify, locate or deliver the requested public records, and if the requestor is informed that the written request or disclosure of identity of the requestor or intended use of the record is not mandatory.

## **Section 2.3**

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.

## **Section 2.4**

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 meeting minutes, budgets, salary information, forms and applications, and such other records requests that the County Commissioners determine are "routine". If any of these records contain exempt material such as social security numbers or other confidential information, they cannot be handled as "routine" requests. 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 practicable, taking into account the time required for legal review or redaction of the records requested, when applicable. The County Commissioners will strive to acknowledge all requests for public records and provide an estimate of the number of business days it will take to satisfy the request within three business days following the records custodian's receipt of the request.

## **Section 2.5**

Any denial of 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. If the initial request was in writing, the explanation shall also be provided in writing.

### **Section 3. Costs for Public Records**

Those seeking public records will be charged only the actual cost of making copies.

#### **Section 3.1**

The charge for paper copies is three cents (\$.03) per page.

#### **Section 3.2**

The charge for downloaded computer files to a compact disc is the actual cost, not to exceed \$1.26 per disc.

#### **Section 3.3**

There is no charge for documents e-mailed.

#### **Section 3.4**

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

#### **Section 3.5**

The County Commissioners may require the requestor to pay in advance the actual cost involved in providing the copies, including postage.

### **Section 4. E-mail**

All e-mail sent or received through the Cuyahoga County Information Services Center is the property of Cuyahoga County.

All e-mail sent or received through the Cuyahoga County Information Services Center will be available on the user's desktop computer until the user deletes it or until the automatic system delete occurs after 90 days from being sent or received, unless archived by the user.

All e-mail, whether or not archived by the user within the first 90 days, will be saved off site for 365 days from the date of creation or receipt. After 365 days, the e-mail will be permanently purged from the Cuyahoga County Information Services Center's system. If a user wishes to retain a copy of any e-mail beyond 365 days, the e-mail must be archived by the user.

**Section 4.1**

Employees who use private e-mail accounts to conduct public business create records that may be subject to disclosure in accordance with the Ohio Public Records Law. All employees or representatives of this office shall be instructed to comply with this office's records retention policy with regard to all e-mails in private accounts that document the organization, functions, policies, decisions, procedures, operations, or other activities of the office, and to make them available to the office's records custodian in a timely manner.

**Section 4.2**

The records custodian shall be instructed 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 Ohio Public Records Law.

**Section 5. Failure to Respond to a Public Records Request**

The County Commissioners recognize that the consequences of failing to properly respond to a public records request in accordance with the law may result in a court ordering the County Commissioners to comply with the law and to pay the requestor attorney's fees and statutory damages.