

Resolution

Number 15-0935

Adopted Date June 23, 2015

APPROVE AND ADOPT WARREN COUNTY BOARD OF COMMISSIONERS PUBLIC RECORDS POLICY


BE IT RESOLVED, to approve and adopt Warren County Board of Commissioners Public Records Policy as attached hereto and made a part hereof.

Mrs. South moved for adoption of the foregoing resolution, being seconded by Mr. Grossmann. Upon call of the roll, the following vote resulted:

Mr. Young - yea
Mr. Grossmann - yea
Mrs. South - yea

Resolution adopted this 23rd day of June 2015.

BOARD OF COUNTY COMMISSIONERS



Tina Osborne, Clerk

/to

cc: Policy and Procedure file
All Departments
OMB

Warren County Board of Commissioners Public Records Policy

Warren County is an open government and welcomes participation by our citizens. We believe that openness and transparency leads to a better informed public, accountable government and better public policy. A citizen's ability to evaluate the effectiveness of its government is one of the hallmarks of a democratic society. Warren County strongly supports that right.

This document outlines the public records inspection and copy policy for the Warren County Board of Commissioners for all county departments under the authority of the Board and Appointing Authorities that select to adopt this policy. Any changes to this policy must have legal approval by the Warren County Prosecutor's Office before being adopted by the Board of Commissioners.

Defining a Public Record

A public record, under Ohio Revised Code §149.43, is a record held by a public office that is stored on a fixed medium including but not limited to paper, electronic media, e-mail, video, map, blueprint, photograph, voicemail message, micrographics and etc., created, received or sent under the jurisdiction of a public office that serves and/or documents the organization, functions, policies, decisions, procedures, operations and other activities of the office.

Records Request and Inspection

As a public entity, Warren County pledges consistency with Ohio law to provide prompt inspection of all public records. Under Ohio Revised Code §149.43, public records shall be organized and maintained so they are readily available. Upon a request for public records, copies are to be available for examination in a reasonable amount of time and should be made available on the same medium for which they were kept, or other mediums accepted under the Ohio Revised Code. All public records requests must be acknowledged or satisfied within a reasonable amount of time.

Records will be made available for inspection and copying at all reasonable times during regular business hours within the work week, exclusive of holidays, including offices open 24 hours a day, 7 days a week. Agencies under the Board of Commissioners and any agency that adopts this policy must specify and post their normal hours of operation.

While there is no specific language required to make a request for public records, the requester must identify the records requested with reasonable clarity in order to allow the public office to identify, retrieve and review the records. The request should not be overly broad or vague. If clarity is needed because a records request is ambiguous, the requester may be contacted and allowed the opportunity to revise the request. The public office is not required by law to provide records that do not exist at the time of the original request. The public office is not required to do research for a request when the requester can inspect the records themselves.

The original requester is not required to put a public records request in writing, nor do they have to provide his or her identity or to provide the intended use of the requested public record. The records office, however, may ask for a written request and also for the requester's identity/intended use of the requested public records if:

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1. This would permit the office to identify, locate or deliver the public records requested with greater proficiency, and;
2. If the records seeker has been informed that a written request, the identity of the requester and their intended use is not required.

An agency cannot limit the number of requests filled, unless the public agency receives ten or more public requests from the requester within a calendar month. Under Ohio Revised Code §149.43(b)(7), the public office may require the requester to sign and notarize a Letter of Certification showing that the requester will not use and does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. "Commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research. If the requester does not wish to comply with this, the public office is only required to fulfill a maximum of ten requests per month.

Electronic Records

Records in the form of e-mail, text message, and instant message, including those sent and received via a hand-held communications device (such as a Blackberry, iPhone, etc) will be treated in the same fashion as records in other formats, such as paper or audiotape. Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees, elected officials and appointed authorities of public offices under the public records policy are required to retain their e-mail records and other electronic records in accordance with the Warren County General Records Retention Schedule. If an electronic record does not serve to document the organization, functions, policies, procedures or other activities of the public office, it is not a record, under Ohio Revised Codes §149 and §1306.

Social Media

All Warren County social media sites are subject to Ohio Public Records Laws. The content maintained in a social media format that is related to county business, including a list of subscribers and posted communication, maybe considered a public record. All content related to county business that is considered a public record, shall be maintained in an accessible format so it can be produced in response to a public records request and retained in accordance to the Warren County General Records Retention Schedule. Warren County reserves the right to restrict or remove any content that is deemed in violation of this policy.

Denial and Redaction of Records

Warren County interprets Ohio's Public Records Act liberally in favor of disclosure. Public offices generally hold three types of records:

1. Records that are not subject to any exception, which can be released upon request;
2. Records that are subject to exception which may be released if the office has the right and chooses to waive exception and;

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3. Confidential records in which the release of these records is prohibited by law and will not be released.

Any denial of a public records request must include an explanation, including legal authority. If portions of a record are public and sections are exempt, the exempt sections shall be redacted and the rest released. When making public records available for public inspection or copying, the office shall notify the requestor of any redaction or make the redaction plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

Failure to Respond to a Public Records Request

The Warren County Board of Commissioners recognizes that the failure to properly respond to a public records request may lead to legal consequences. If the requester feels their request was denied or was not responded to properly, they may consult the Ohio Revised Code and Ohio Sunshine Laws to further seek legal ramifications for addressing their complaint.

Reproduction and Copying Costs

Copies of public records can be sent via mail, electronically through e-mail or fax and also available for pick up and inspection during the hours of regular business operation. Individuals seeking public records will only be charged the actual cost of copies, including paper, compact disks/DVDs, ink, copiers and preventative maintenance. Requesters are not charged for the labor to reproduce a public record. The charge for paper copies is \$.05 per page, with the first five (5) copies being free of charge. In determining the number of free copies, the number of copies received by an individual in a calendar year is cumulative. This means the number of free photocopies does not restart with each request within a calendar year. The charge for a compact disc for transferred electronic records is the actual cost of the medium. The charge for any additional medium herein will be the actual cost of the medium. If a requester wishes to have the public office send records through the mail, the public office may require individuals seeking public records to prepay for the cost of copies and postage. An individual can bring in their own flash drive, hard drive or other electronic retrieval device to download public records free of charge during the hours of regular business operation.

Fees for special records will be established by the Appointing Agency responsible for the record being requested with said fee having been approved by the Board of Commissioners or mandated by rules within the Ohio Revised Code. If the Board of Commissioners have jurisdiction to approve such a fee, written receipt of justification for the amount of the fee and review from the applicable authority must be submitted to the Board. Examples of such records include but are not limited to building construction plans, water and sanitary sewer construction plans and other documents that require a large document photocopier or computer plotter to generate a replica.

Warren County agencies may, in its sole discretion, provide copies of records free of charge regardless of the number of copies.

For more information concerning public requests not addressed within this policy, citizens may consult the most recent Ohio Sunshine Laws Update available through the office of the Ohio Attorney General, which can be found online at <http://www.ohioattorneygeneral.gov/YellowBook>.

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