

CITY OF FOSTORIA, OHIO

Ordinance No.: 2019 - \_\_\_\_\_

Introduced by: \_\_\_\_\_

Requested by:

AN ORDINANCE

Amending section 111.01 of the Codified Ordinances of the City of Fostoria, Ohio.

WHEREAS, the Law and Ordinance Committee has met in a meeting open to the public and has proposed an amendment to section 111.01 of the Codified Ordinances of the City of Fostoria, Ohio.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Fostoria, Seneca, Hancock, and Wood Counties, Ohio:

SECTION 1: The Codified Ordinances of the City of Fostoria, Ohio be, and the same hereby is, amended by adding language to section 111.01, of Chapter 111, "REQUESTS FOR AND ESTABLISHING FEES FOR COPIES OF PUBLIC RECORDS OF THE CITY", which shall read as follows:

**111.01 REQUESTS FOR AND ESTABLISHING FEES FOR COPIES OF PUBLIC RECORDS OF THE CITY.**

(A) *Policy.* The City of Fostoria, Ohio shall comply with Section 149.43 of the Ohio Revised Code as well as any amendments made thereto from time to time. 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 the city 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. If the request is in writing, the explanation must also be in writing.

(B) *Public records.*

(1) The city, in accordance with the Ohio Revised Code, defines records as including the following: Any document - paper, electronic (including, but not limited to, email), 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 are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

(2) It is the policy of the city that, as required by state law, records will be organized and maintained so that they are readily available for inspection and copying. Record retention schedules are to be updated regularly and posted prominently.

(3) Nothing in this section shall require a city official or employee to search for or create records containing selected information.

(C) *Record requests.* Each request for public records should be evaluated for a response using the following guidelines:

(1) 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 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.

(2) 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 that this information is not to be requested.

(3) Public records are to be available for inspection during regular business hours, with the exception of published holidays. 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.

(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, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, and the like. 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 allows.

(5) All requests for public records must either be satisfied or be acknowledged in writing by the city 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 acknowledgment must include the following: an estimated number of business days it will take to satisfy the request; an estimated cost if copies are requested; and any items within the request that may be exempt from disclosure.

(6) 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.

(D) *Costs copies of public records.*

(1) Photocopies of public records made pursuant to a public records' request will be charged at the city's actual photocopying cost which is currently \$.05 per page for single-sided (8½" x 11") copies or \$.08 per page for duplex (double-sided 8½" x 11") copies, except for those records maintained by the Police and Fire Divisions where the cost will be \$.10 per page for 8½" x 11" single-sided copies. The photocopying cost(s)

shall be reviewed semi-annually and if necessary, the per page copying costs shall be adjusted dependent upon the change to the actual cost for photocopying. Requests for public documents on other media types, such as large paper or other media type(s), will be charged based on the actual cost to the city to duplicate. Labor costs will not be used in considering the amount charged. Nothing in this section shall require city officials to charge or collect a fee for providing written information to any person or shall be construed to limit the discretion of any department or division head to waive fees customarily charged for copies of documents. The charge for downloaded computer files to a compact disc is \$1 per disc. There is no charge for documents e-mailed. Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies. The Finance Director is charged with accepting these fees.

(2) If the city estimates that a request for copying public records will exceed 200 pages or \$10, the requester must provide advance payment of the estimated cost, from which the actual cost will be debited. If the actual cost exceeds the estimated cost already paid, the city will bill the requester for the remaining amount. If the actual cost is less than the estimated cost already paid, a refund will be issued to the requester in the amount of excess payment made.

(3) If the requester refuses or cannot pay the estimated cost in advance, the city will provide the requester with the opportunity to inspect the responsive records free of charge.

(E) *Electronic mail (e-mail).*

(1) Documents in electronic mail (e-mail) format are records as defined by the Ohio Revised Code when their content relates to the business of the office. Email is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

(2) Records in private email accounts used to conduct public business are subject to disclosure, and all employees or representatives of the city are instructed to retain their emails that relate to public business and to copy them to their business email accounts and/or to the department's records' custodian.

(3) The records custodian for each office is to treat the emails 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.

(F) *Failure to respond to a public records request.* The city 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, 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: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open

meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3: That in order to preserve the public peace, health, safety and welfare of the City of Fostoria and its inhabitants, this measure shall take effect at the earliest time allowed by law after its passage for the reason that this ordinance is necessary for the inhabitants of the City of Fostoria.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Steve Kauffman, Council President

ATTEST:

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Tamara L. Drake, Clerk of Council

Filed with me and approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Eric J. Keckler, Mayor