

**FORM 12.36 – CITY OF BROOKLYN
PUBLIC RECORDS POLICY (ORDINANCE 2007-37)**

Introduction

This Public Records Policy is adopted by the City of Brooklyn, Ohio, as required by Ohio House Bill 9, effective September 29, 2007.

It is the policy of the City of Brooklyn 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 Brooklyn 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.

Section 1. Public Records Custodian

All requests for public records must be directed to the authorized Public Records Custodians of the City of Brooklyn, Ohio. 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 records 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.

The Public Records Custodians shall be those persons designated by the Mayor, who are authorized to respond to or to fulfill any public records requests in the various offices of the City of Brooklyn, Ohio. Any public records request made to any other employee, officer or representative of the City of Brooklyn, Ohio, 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 Acting Public Records Custodians to serve in the absence of the Public Records Custodian.

Section 2. Public Records

The City of Brooklyn, 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 Brooklyn are public unless they are specifically exempt and/or excepted from disclosure under the Ohio Revised Code.

The records of the City of Brooklyn, Ohio, will be organized and maintained so that they are readily available for inspection and copying. The City of Brooklyn, Ohio's record retention schedule may be amended from time to time at the discretion of the Records Commission.

Section 3. Public Records Request

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

Section 3.1.

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. The Public Records Custodian may deny a request if the requester makes an ambiguous or overly broad request or has difficulty in making a request such that the Public Records Custodian cannot reasonably identify what public records are being requested. However, in such cases, the Public Records Custodian will provide the requester with information pertaining to the manner in which public records are retained and accessed in the ordinary course of business so that the requester may revise the request if so desired.

Section 3.2.

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

Public records will be made available for inspection only during regular business hours as defined in Section 125.02. 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. Public records can be accessed by one of the following methods; a request to view public records in person; a request for copies of public records that the requester will personally pick up from the Public Records Custodian; or a request for copies of public records that the requester wants to have mailed or otherwise delivered to the requester.

Section 3.3a Request to review public records.

The requester may make a request to view public records to the Public Records Custodian, who shall prepare the public records for inspection "promptly," as required by the Ohio Revised Code. The actual time required to comply with the request may depend on the circumstances (such as location of the records, the volume of records being requested or need for legal review).

Section 3.3b Copies of public records.

The requester may make a request to have copies of public records made to the Public Records Custodian. If copies are requested, the requester may choose to have the record duplicated upon paper, upon the same medium in which the record is kept by the City of Brooklyn, Ohio, or upon any other medium if the City of Brooklyn, Ohio, can reasonably duplicate it as an integral part of its normal operations.

Copies made on paper are 5¢ (five cents) per page. All copy charges must be paid in advance before copies are made. If the Public Records Custodian uses an outside copying service to make the copies (see the following paragraph), the requester will be required to pay the cost of the entire copying job, as billed by the copying service. Copies that are requested in some 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 \$1.00 (one dollar)).

Public records will only be copied by the Public Records Custodian or other authorized officers, employees or representatives. 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 copies. The manner of making the copies is at the discretion of the Public Records Custodian. Requests to copy a certain number of public records on a given page, by “reducing” copy size or otherwise, may be met at the discretion of the Public Records Custodian.

Copies will be made available by the Public Records Custodian “within a reasonable time,” as required by the Ohio Revised Code. The time for compliance will depend upon the availability of records and the volume of records requested.

Section 3.3c Transmitting copies of public records.

A requester may request that copies of public records 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). (For example, public records that are only available in paper form will not be scanned and sent by e-mail, but can be sent by fax.) The cost of transmitting must be paid by the requester before the public records will be transmitted.

Copies will be transmitted to the requester by the Public Records Custodian “within a reasonable time,” as required by the Ohio Revised Code. The time for compliance will depend upon the availability of the records and the volume of records requested.

Section 3.3d Cost of Copies or Means of Transmitting Copies.

Cost of copies or means of transmitting copies. Charges for copies or for transmission of copies (U.S. Mail, FedEx, UPS, etc.) can be paid for in cash, [or by check/money order/certified check, made payable to the City of Brooklyn, Ohio. 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. The City shall not charge for any document sent by e-mail.

Section 4. Denial of Public Records Request

Any denial of public records requested, in part or in whole, must include an explanation, including legal authority for the denial. If the records request was in writing, the explanation 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. Because a redaction is deemed a denial under the Ohio Revised Code,¹ each redaction must be accompanied by a supporting explanation, including legal authority.

Section 5. Records and Information Exempt from Disclosure

Some records or information maintained by the City of Brooklyn, Ohio, are not “public records” but are protected, confidential records under Ohio and/or Federal law. Examples of protected, confidential records, include, without limitation: infrastructure records,² security records, medical records, records pertaining to adoption, probation, and parole proceedings, records pertaining to actions and appeals under R.C. 2151.85 (juveniles seeking abortions), records listed in 3107.42(A) (relating to adoption release records), trial preparation records, records and communications protected by R.C. 2317.02(A) (records and communications by and between the City of Brooklyn, Ohio, and its attorneys), confidential law enforcement investigatory records, records containing information that is confidential under R.C. 4112.05 (Civil Rights Commission), DNA records pursuant to R.C. 109.573, and records the release of which is prohibited by state or federal law.

In no event will records and communications by and between the City of Brooklyn, Ohio, and its attorneys be released, unless the City of Brooklyn, Ohio, consents to their release.

Section 6. Compliance with Ohio Revised Code.

With any public record request, the City of Brooklyn, Ohio, and the Public Records Custodian reserve the right to consult with legal counsel prior to the release of such public records. This is to allow the City of Brooklyn, Ohio, the opportunity to comply with the laws prohibiting the release of certain records and permitting the denial of release of certain records.

Section 7. Failure to Respond to Public Records Request.

The City of Brooklyn 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 of Brooklyn’s failure to comply with a request may result in a court ordering the City of Brooklyn to comply with the law and to pay the requester attorney’s fees and damages.

Section 8. Miscellaneous

This policy shall be placed in any City employee manual or handbook.

As required by House Bill 9, a poster summarizing the main points of this Policy shall be developed and prominently displayed in each department at or near the place where the public is invited and would likely present a public records request.