



## FREEDOM OF INFORMATION ACT POLICY

Topic: <b>Freedom of Information Act Policy</b>	Effective Date: <b>9/8/2014</b>
Primary Responsibility: <b>City Clerk</b>	Reviewed Date:
Approved By: <b>St. Joseph City Commission</b>	Revised Date:

### 1. Purpose

It is the intent of this policy to provide a clear set of procedures for citizens and City officials in requesting and disclosing public records. The intent of this policy is to comply in all respects with the FOIA, but in the unintended event of a conflict, the FOIA shall control and be deemed a part of this policy.

### 2. FOIA Coordinator

The City Clerk is appointed the City's FOIA Coordinator and delegated duties as the FOIA Coordinator. With the exception of Section 4 of this Policy, all City officials and employees receiving document disclosure inquiries shall immediately transfer them to the FOIA Coordinator. All written requests for public records shall be forwarded to the FOIA Coordinator to keep in accordance with the current document retention schedule. A copy of all written FOIA requests shall be kept on file for no less than one (1) year.

### 3. Procedure

With the exception of information requested described in Section 4 of this Policy. All responses to requests for information under the FOIA shall be forwarded to and reviewed by the FOIA Coordinator prior to responding to the request according to the following procedure:

- A. Requests to review and for copies of records under the FOIA shall be in writing; all email submittals will be considered received on the next business day.
- B. The request shall be date-stamped by the receiving department.
- C. The request shall immediately be forwarded to the FOIA Coordinator.
- D. The FOIA Coordinator shall distribute the request to all applicable departments, who shall return the information to the FOIA Coordinator.
- E. The FOIA Coordinator shall prepare the response, with review by the City Attorney when appropriate.



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F. When deemed appropriate, the City Attorney shall prepare the FOIA response.

### **4. Exceptions**

The following exceptions apply:

- A. Public Safety Department Information. Request for information from the St. Joseph Public Safety Department shall be handled pursuant to the Public Safety Department FOIA Policy and shall be forwarded to the Public Safety Department's designated FOIA Coordinator.
- B. Routine Information. Requests for information from other departments shall be handled by that department if:
  - i. The request is for records that are routinely provided to the public by that department;
  - ii. The records are readily available;
  - iii. The records are not exempt from disclosure under the FOIA;
  - iv. The records exist at the time of the request;
  - v. The record is sufficiently described; and
  - vi. No other department would be likely to have the requested records. The fees described in Section 7 shall be applicable to such requests.

### **5. Rules to Prevent Excessive and Unreasonable Interference with City Functions**

- A. Records may only be personally examined during normal business hours, i.e., between 8:00 a.m. and 5:00 p.m. on City business days.
- B. City staff shall be given ample opportunity to review files for exempt or privileged records prior to allowing public examination.
- C. City staff may defer a request to personally examine records within the time limits indicated in the FOIA.



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### 6. Rules to Protect Records

- A. To protect records from loss, unauthorized alteration, mutilation or destruction, each department may adopt rules to protect its records. The following are general records' protection rules for all departments:
- B. Records are to remain in the departmental vicinity while being reviewed.
- C. Records are not to be altered in any manner.
- D. Pens are not allowed in record review rooms.
- E. Copies of records are to be made by City staff or its designee, with the exception of microfilmed records. Microfilmed records may be made by the person reviewing the records at the discretion of the FOIA Coordinator.
- F. For documentation purposes, staff shall keep copies of or a list of documents released or copied.
- G. Records may not be removed from binders; records within files shall be kept intact and in order.
- H. Copies of City computer records shall be made on computer devices provided by City; copies of tapes shall be made on tapes provided by the City.
- I. Records to be copied may be identified by tape flags or "Post-It" notes, by separate written description, or by inserting loose paper between pages.
- J. Copyrighted material shall not be photocopied.

### 7. Fees

- A. Copies.

30 cents per page for letter or legal sized copies

\$1.00 per page for ledger sized copies

\$4.00 per page for larger copies

Computer discs - current City cost

Tapes - current City cost

If duplication requires outside services, actual cost

- B. Faxing. \$1.00 per transmission.



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- C. Mailing. Actual mailing, packaging and transportation costs shall be charged.
- D. Labor. The labor cost, including benefits, of the lowest paid employee capable of searching, compiling, examining, and reviewing the public record requested.

The labor cost for the time spent reviewing, separating and deleting exempt from non-exempt information will be charged when the cost to respond to the FOIA request is unreasonably high. This determination will be made on a case by case basis considering the volume and complexity of the FOIA request, including the number of documents requested, the number of documents that must be searched to respond to the request, the location of documents, the number of documents that must be examined to respond to the request, and the amount of information that must be redacted. As a general rule if more than one half hour is spent on this task then the labor cost will be charged.

Note: City email accounts may only be searched by the email account holder or the system administrator; therefore the actual rate of each email account holder or the system administrator (whichever is lower) will be charged for email searches.

- A. Public Records routinely authorized for sale. Current fee schedule or city cost.
- B. Costs set by Law. Documents which are required to be prepared and sold for a specific fee under Michigan or federal law shall be sold in accordance with the applicable Michigan or federal law.

The FOIA Coordinator is authorized to establish such other fees and charges not covered by this policy. At the time a request is made, the City may require a deposit from the person requesting the public record if the fees will exceed \$50.00. The deposit shall not exceed one-half of the total fee for the request.

The first \$20 of the fee may be waived, for such request if the individual requesting the FOIA submits an affidavit providing proof that the individual is receiving public assistance or is indigent.

### **8. Appeals**

- A. City Manager. Before filing an appeal with the Circuit Court pursuant to Section 10 of the FOIA, a requesting person may file a written appeal to the City Manager. The City Manager shall respond to the written appeal not more than 10 business days after receiving a written appeal. The City Manager may take any of the following actions in response to the filing of an appeal:



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- i. Reverse the denial.
- ii. Issue a written notice to the appellant affirming the denial.
- iii. Reverse the denial in part and issue a written notice to the appellant affirming the denial in part.
- iv. If necessary due to unusual circumstances, issue a notice extending for not more than 10 business days the period during which the City Manager may respond to the appeal.

### **9. Exemptions**

The FOIA Coordinator, or the City Attorney when responding to a FOIA request, is authorized to exempt from disclosure all or portions of a public record pursuant to Section 13 of the FOIA. On appeal, the City Manager is so authorized to exempt all or portions of a public record. When appropriate, the FOIA Coordinator and the City Manager may consult with the City Attorney prior to exempting all or portions of a public record from disclosure.