

**CITY OF LAPEER  
FREEDOM OF INFORMATION ACT (PA 442 of 1976)  
COMMISSION POLICY**

**I. PURPOSE:**

It is the intent of this policy to:

- A) Provide procedures for citizens and City officials in disclosing public records in accordance with the requirements of the Michigan's Freedom of Information Act (FOIA), PA 442 of 1976 (MCL 15.231 to 15.246).
- B) Comply in all respects of FOIA, but in the unintended event of a conflict, FOIA shall control and be deemed a part of this policy.

**II. FOIA COORDINATOR:**

- A) The City Manager is designated and delegated the duties of FOIA Coordinator. The FOIA Coordinator may designate another individual to act as FOIA Coordinator.
- B) The FOIA Coordinator shall be responsible to accept and process requests for public records and approve denials. All City officials and employees receiving document disclosure inquiries shall immediately transfer them to the FOIA Coordinator.

**III. PROCEDURE:**

All requests for information under FOIA shall be forwarded to, received by, and reviewed by the FOIA Coordinator prior to granting the request according to the following procedure:

- A) All FOIA requests must be in writing, and describe the public records sufficiently to enable the public body to find the public record. The FOIA Coordinator will notify the requestor if clarification is needed. Such notice, if sent, shall not be interpreted as a denial of the request for purposes of the FOIA or this policy.

Neither the City nor the FOIA Coordinator are required to make a compilation, summary, report of information, or create a new public record. This exemption includes analyzing, compiling, or summarizing existing information into a new format. Neither the City nor the FOIA Coordinator is obligated to provide answers to oral or written questions.

The City will use its best efforts to respond to all requests made pursuant to a FOIA request. However, the City will search only the most likely locations for responsive public record(s). The City of Lapeer is not required under FOIA to search each and every record it maintains in order to discover material that might pertain to a specific request.

- B) All FOIA requests received by facsimile, electronic mail or other electronic means shall be deemed to have been received the next business day.
- C) The request shall be date-stamped by 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 a response in compliance with Section 5 of FOIA, with review by the City Attorney when appropriate.
- F) The FOIA Coordinator shall keep a copy of all written requests for public records on file for no less than one year.
- (G) Should the requestor determine to withdraw a request, the withdrawal shall be in writing. Costs and labor will be charged for the work performed on the request up to the date and time the request was withdrawn.

#### **IV. EXCEPTIONS TO FOIA POLICY:**

- A) Routine Information: Requests for information from other departments shall be handled by that department if:
  - 1) The request is for records that are routinely provided to the public by that department, such as taxes and water billings;
  - 2) The records are readily available;
  - 3) The records are not exempt from disclosure under the FOIA;
  - 4) The records exist at the time of the request;
  - 5) The record is sufficiently described; and
  - 6) No other department would be likely to have the requested records.
- B. Any records covered by the Enhanced Access to Public Records Policy.

#### **V. RULES TO PREVENT EXCESSIVE AND UNREASONABLE INTERFERENCE WITH CITY FUNCTIONS:**

- A) Records may be personally examined only during normal business hours, between 8:00 A.M. and 5:00 P.M. on City business days.

- B) City staff shall be given ample opportunity to review for separation of exempt or privileged records from non-exempt or unprivileged records prior to allowing public examination after responding in writing to the request as required under Section 5 (2) of FOIA. Due to the nature of the request, a labor charge may be charged for the search, examination, review, and (if appropriate) the deletion and separation of exempt from non-exempt information as provided in Section 4 of FOIA.

## **VI. RULES TO PROTECT RECCORDS:**

To protect records from loss, unauthorized alteration, mutilation or destruction. The following are general records' protection rules for all departments:

- A) Records are to remain in the departmental vicinity while being reviewed.
- B) Records are not to be altered in any manner.
- C) Pens or indelible writing instruments are not allowed in record review rooms.
- D) No notes or writing of any kind shall be made on the documents themselves.
- E) Copies of records are to be made by City staff or its designee.
- 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.
- H) Records within files shall be kept intact and in order.
- I) Copies of City computer records shall be made on computer discs provided by the City.
- J) Copies of tapes shall be made on tapes provided by the City.
- K) Records to be copied may be identified by tape flags or "Post-It" notes, by separate written description, affixation of paper clips, or by inserting loose paper between pages.
- L) Copyrighted material shall not be photocopied.

## VII. FEES:

- A) The FOIA Coordinator will be responsible for billing fees and costs incurred by the City to the requestor where appropriate.
- B) Fees are as listed on the City of Lapeer Fee Schedule.  
Copies  
Maps  
Computer Disks  
Photos  
Outside Service: if required for duplication or other request.  
Mailing
- C) Labor:  
The labor cost, including fringe benefits, of the lowest paid employee capable of retrieving the information necessary to comply with the request will be charged.

Pursuant to Section 4 (3) of FOIA, a fee will be charged for processing a request that requires more than one hour of time for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material, or any part thereof.

In compliance with Section 3 (3) of FOIA which requires the public body to protect public records, labor costs for monitoring an inspection of original records will be calculated using the hourly wage plus fringe benefits of the lowest paid available employee.

- D) Routine Information: Public Records:  
Routine information provided by other departments, such as taxes and water billings, will be charged according to the City of Lapeer Fee Schedule or City cost.
- E) Subscriptions:  
When a request for copies of regularly published records is made to the FOIA Coordinator, an escrow deposit as listed on the City of Lapeer Fee Schedule will be paid. The City will charge against the escrow for the costs of copying and postage. There will be no labor charges since this must be a public record that is routinely developed. The FOIA Coordinator will maintain an account sheet of the number of copies and costs of mailing. If the escrow deposit is reduced to \$5.00 or less prior to expiration of the request, the FOIA Coordinator will contact the person for an additional deposit or termination of the request.

- F) Miscellaneous Fees:  
The FOIA Coordinator is authorized to establish such other fees and charges in situations not covered by this policy
- G) Deposit(s):  
At the time a request is made, the City may require a deposit from the person requesting the public record or series of public records if the fees will exceed \$50.00. The deposit shall not exceed one-half of the total fee for the request. Prior to release of requested records, the City may require payment in full by the Requestor for all fees and costs associated with the request.
- H) Indigence:  
A copy of a public record shall be furnished without charge for the first \$20.00 of the fee for such request if the individual requesting such information submits an affidavit demonstrating that the individual is receiving public assistance, or if not receiving public assistance, is unable to pay the cost because of indigence.

#### **VIII. APPEALS:**

In accordance with Section 10 of FOIA, where a person's request for a public record is denied by the FOIA Coordinator, in whole or in part, the requesting person may do one of the following at his or her option:

- A) Submit to the Lapeer City Commission a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial. The City Commission shall receive the appeal at its next regular meeting and, shall respond to the written appeal not more than 10 business days after receiving the written appeal. The City Commission shall take one of the following actions in response to the filing of an appeal.
- 1) Reverse the denial.
  - 2) Issue a written notice to the appellant affirming the denial.
  - 3) Reverse the denial in part and issue a written notice to the appellant affirming the denial in part.
  - 4) If necessary due to unusual circumstances, issue a notice extending for not more than 10 business days the period during which the City Commission shall respond to the written appeal.
- B) Commence an action in the Circuit Court to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

**IX. EXEMPTIONS:**

The FOIA Coordinator is authorized to exempt from disclosure a public record pursuant to Section 13 of FOIA, and on appeal, the City Commission is authorized to so exempt a public record. In addition to exemptions as outlined under Section 13 of FOIA, the following shall apply.

- (A) Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

**HISTORY:**

	<u>Date:</u>	<u>Moved:</u>	<u>Seconded:</u>
Amended	2012 02-20	Bostick-Tullius	Marquardt

Previous Records Reflect:

Amended	05-19-97
Adopted	11-07-77