

City of Midland  
Freedom of Information Act  
(P.A. 442 of 1976, as amended)  
Administrative Policy

I. Purpose.

Public Act 442 of 1976, commonly known as the Freedom of Information Act (FOIA), requires the City of Midland (City) to disclose, upon request, all non-exempt public records that are covered under the Act. The purpose of the Act is to insure that all persons, except those incarcerated in state or local correction facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees.

Pursuant to Section 4 of the Act, the City is authorized to charge a fee for providing a copy of a public record and a fee for examining, reviewing, separating and deleting exempt from non-exempt public records, subject to specific limitations and restrictions. The City is required to establish and publish procedures and guidelines to implement provisions of the Act with respect to fees to be charged to the public.

II. Policy.

1. Upon written request, all non-exempt public records of the City will be made available for inspection and/or a copy provided pursuant to the requirements of the Act.
2. The City Manager is hereby designated as the City's FOIA Coordinator. The FOIA Coordinator shall be responsible for accepting and processing requests for the City's public records and shall be responsible for approving a denial of a request pursuant to Sections 5(4) and 5(5) of the Act.

The Act provides that the FOIA Coordinator may designate another individual to act on his or her behalf in these matters. As authorized, the FOIA Coordinator hereby designates the City Clerk as the person responsible for accepting and processing FOIA requests. Further, in the absence of the FOIA Coordinator, the FOIA Coordinator hereby designates the City Attorney as the person responsible for approving a denial of a request. As necessary, other individuals may be delegated these responsibilities.

3. The FOIA Coordinator shall insure that a copy of all written requests for public records are kept on file for no less than 1 year.
4. The fees to be charged for complying with a request under the Freedom of Information Act shall not exceed any one or more of the following items, as applicable:
  - a. Actual mailing costs.
  - b. Actual incremental cost of duplication or publication, including labor.
  - c. Actual labor cost of searching, examining, reviewing and deleting, and separating exempt from non-exempt information as provided in Section 14 of the Act.

In calculating the cost of labor incurred, the City may not charge more than the hourly wage of the lowest paid City employee capable of retrieving the information necessary to comply with the request. Fees shall be uniform and not dependent upon the identity of the person submitting the request. Fees shall be waived for requests for information for which the fee would be equal to or less than \$5.00.

5. The FOIA Coordinator shall publish a schedule of fees permitted under the Act and shall annually review and publish any changes to be made to the schedule of fees. A copy of the schedule of fees shall be maintained by the City Clerk and made available to the public.

6. To administer this Policy in an efficient and consistent manner, the following documents shall be utilized and distributed as necessary:

- A. Public Information Sheet
- B. Overview of Freedom of Information Act
- C. Exceptions to the Act
- D. Schedule of Fees
- E. Waiver of Fees
- F. Procedures for Processing a FOIA Request
- G. Freedom of Information Act Request Form
- H. Freedom of Information Act Request Response
- I. Affidavit of Indigency

7. The FOIA Coordinator shall annually review the City's FOIA policy Administrative Policy and shall publish any revisions. The FOIA Coordinator may enter into agreements with other public bodies as necessary to effectively administer and coordinate this Policy.

## **SCHEDULE OF FEES**

### Service Fee

1. Labor cost for: Actual cost for the service

mailing, rendered by the service provider.

duplicating,

searching, examining,

reviewing, separating,

deleting.

2. Labor cost for monitoring Actual cost for the service  
public review of original file rendered by the service provider.

at City offices.

3. Mailing costs. Actual cost.

4. Duplicating

Per page-one side \$0.10 each

Per two-sided page \$0.20 total

5. Other materials, i.e. video tapes, Actual cost.

computer disks, etc.

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#### NOTES:

1. Fees of \$5.00 or less shall be waived.

2. A good faith deposit must be provided in advance for those requests for which the fees are estimated to be over \$50.00. The deposit shall not exceed 1/2 of the total fee.

3. The fee must be received before copies are delivered or before searching and reviewing commences, if a deposit is required.

3. No services shall be provided to a person or entity who owes the City money as a result of a prior request to receive copies or to review the City's public records.

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### **WAIVER OF FEES**

The FOIA coordinator or his or her designee shall have the exclusive authority to determine if a fee for a Freedom of Information Act request shall be waived and the following criteria shall be used to render such a decision:

1. No fee shall be charged if the request can be considered to be in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

2. A public record search shall be made and a copy of the public record shall be furnished without charge for the first \$20.00 of the fee for each request to an individual who is entitled to information under this Act and who submits an affidavit, provided by the City, which shall state that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. A person shall be considered indigent if that person's income level is at or below the federal

poverty level as established by the Bureau of the Census.

3. Fees of \$5.00 or less shall be waived.

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## PUBLIC INFORMATION SHEET

### FREEDOM OF INFORMATION ACT

The Freedom of Information Act requires the City of Midland to provide copies of non-exempt public records, to furnish a requesting person a reasonable opportunity for inspection and examination of its non-exempt public records, and to furnish reasonable facilities for making copies of memoranda or abstracts from its non-exempt public records. The City of Midland, under the Act, may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. To this end, the following policies and procedures have been established:

1. A request to review or obtain copies of non-exempt materials may be made in person, transmitted electronically or mailed to the City at its offices, located at 333 West Ellsworth Street, Midland, Michigan. The City's fax number is (989) 835-2717. The City's e-mail address is: [cityhall@midland-mi.org](mailto:cityhall@midland-mi.org). Requests must identify specific documents or contain enough information to enable staff to fulfill the request.
2. The Act does not require the City to make a compilation, summary or report of information. All requests for information must specifically describe a document or the information to be obtained.
3. The cost for filing the request shall be limited to the actual costs incurred by the City. No paperwork will be required or charges levied for requests to review specific documents which are required by ordinance to be made available to the public by the City Clerk. A request form must be filled out for other documents and stamped with the date and time the request was made. If it is estimated that a request will cost more than \$50.00, a deposit of one-half the estimated cost must be paid before searching, reviewing and copying documents commences. The request will expire five (5) days after notification of the deposit. Fees of \$5.00 or less shall be waived.
4. Certain information is exempt from disclosure under the Freedom of Information Act. A notice as to whether a request will be approved, denied in part, or denied totally will be provided to the requesting party within five (5) business days of the time the request was received.
5. The City will issue a notice extending for not more than ten (10) business days the period necessary to respond to a request if additional time is required.
6. If a request is approved, a time will be arranged to review the materials or to obtain copies. All charges incurred must be paid before copies are obtained. If the requesting party only requests to review and make notes from non-original documents, a reasonable place will be provided in which to do this. If a requesting party wants to review original materials, a staff member shall be assigned to monitor the review to insure that the integrity of all materials is maintained. A monitor may be required at other times at the discretion of the FOIA Coordinator or his or her delegate. At the end of the review, the requesting party will be required to pay any labor costs incurred for monitoring.
7. If a person requesting records is determined to be indigent, the first \$20.00 incurred for any single request will be waived. To claim indigency, an Affidavit of Indigence must be completed indicating that the person is on public assistance stating facts showing inability to pay the costs because of indigency. A person shall be assumed to be indigent if his or her income is below the Federal poverty level as determined by the Census Bureau.
8. If a request is denied, a notice shall be issued explaining the reason for the denial. If the requesting party is not satisfied with the justification for the denial, he or she may appeal this decision to the City Council or commence action in Circuit Court pursuant to Section 10 of the Act.

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## EXCEPTIONS TO THE FREEDOM OF INFORMATION ACT

Under the Freedom of Information Act, a public body may exempt from disclosure the following record(s) and information:

1. Record(s) that are of a personal nature and the disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
2. Record(s) that are investigating records compiled for law enforcement purposes.
3. Record(s) that, if disclosed would prejudice the public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability.
4. Record(s) or information specifically described and exempted from disclosure by statute.
5. Record(s) that would prevent the body from complying with Section 444 of subpart 4 of part C of the General Education Provisions Act, 20 USC 1232g.
6. Record(s) or information described in this section that are furnished by the public body originally compiling, preparing or receiving the record(s) or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.
7. Record(s) that are trade secrets or commercial or financial information voluntarily provided to an agency for developing governmental policy.
8. Record(s) that are subject to the attorney-client privilege.
9. Record(s) that are subject to the physician-patient, psychologist-patient, minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.
10. Record(s) that are a bid or proposal to enter into a contract or agreement prior to the time established for submission or public opening.
11. Record(s) that are appraisals of real property to be acquired by the public body prior to an agreement for purchase and appraisals that are less than three (3) years old.
12. Record(s) that are test questions and answers, scoring keys, or other examination instruments.
13. Record(s) that are medical, counseling, or psychological facts or evaluations which would disclose an individual's identity.
14. Record(s) that are communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final determination of policy or action.
15. Record(s) that are records of law enforcement communication codes, or plans for deployment of law enforcement personnel.
16. Record(s) that would reveal the exact location of archaeological sites.
17. Record(s) that are testing data for determining whether bidder's products meet specifications.
18. Record(s) that are records of a campaign committee.
19. Record(s) that are records of a law enforcement agency and identify an informer, identify an undercover officer, disclose personal address or telephone numbers of an officer or family members, disclose operations, reveal contents of manuals, endanger life or safety of officers or their families, disclose personnel records of officers, or identify residences that an agency is requested to check on in the absence of their owner.
20. Record(s) of security measures.
21. Record(s) or information relating to a civil action in which the requesting party and the public body are parties.
22. Record(s) that would disclose the social security number of an individual.

## **PROCEDURES FOR PROCESSING A FOIA REQUEST**

### **1. PUT THE REQUEST IN WRITING**

Requests for public records must be made in writing to the City Clerk's office. If a request is made in person, the person making the request must complete and sign a Freedom of Information Act Request form. If the request is made by mail or electronically, a Freedom of Information Act Request form must be completed by an employee of the City Clerk's office. The date and time received must be recorded on the form immediately. If the request is estimated to cost more than \$50.00, including copying, labor and mailing charges, if applicable, fill out the estimated cost section of the form, determine the deposit as one-half the estimated cost, and indicate the balance. The requesting party must make payment before any searching, reviewing or copying commences. One copy of this form shall be returned to the requesting party, one copy shall be forwarded to the appropriate City Department for response and one copy shall be kept for the City Clerk's files. The City Clerk shall notify the Department responsible for compiling the requested records of the date the records must be released to the requesting party.

If the request is made by mail or electronically and a deposit is required, the requesting party must be notified immediately that the deposit must be paid before searching, reviewing and copying can commence.

### **2. INDIGENCE FORMS**

The first \$20.00 of any one request will be waived if the requesting party is receiving public assistance or is indigent. Affidavit of Indigence forms are available at the City Clerk's office. If questions arise, the FOIA Coordinator shall make the final determination concerning indigence in any particular case.

### **3. SEARCHING AND REVIEWING**

The FOIA Coordinator or his or her designate shall be responsible for searching for and reviewing records for exempt materials. If there is any question in the beginning as to whether the material is exempt, the request shall be submitted to the FOIA Coordinator before searching and reviewing commences. After reviewing the requested materials, submit all materials which may be exempt to the FOIA Coordinator for final determination.

Documents which are exempt in part should be copied before deletions are made. Spacer cards should be placed in the appropriate files indicating that exempt material has been removed before the files are given to citizens for review.

### **4. REPLY TO REQUEST - NOTIFICATION DEADLINES**

A Freedom of Information Act Request response letter must be completed within five (5) business days for all requests. This letter will notify the requesting party as to whether the request will be granted, denied in part or denied totally. A notice extending the deadline to respond by ten (10) additional business days can be issued to the requesting person if additional time is needed. Failure to reply to a request constitutes a denial of that request.

### **5. IF THE REQUEST IS GRANTED**

If a request is made to review records, an appointment shall be made and the City Clerk shall provide an area suitable for that purpose.

There is no need to monitor citizens reviewing copies of documents with originals on file elsewhere. However, monitors must be assigned to insure the integrity of materials when citizens are reviewing the originals. At the end of the monitoring period, the citizen must pay any labor costs incurred for monitoring, searching and reviewing.

Citizens who request their own copies of documents must pay for the cost of searching, reviewing and copying before they receive the copies.

#### 6. IF THE REQUEST IS DENIED

The requesting party may appeal the decision to deny or to deny in part to the City Council or the requesting party can bring action in Circuit Court. Suit may only be brought against the City, not against individual employees.

#### 7. DETERMINING COSTS

Use the fee schedule to estimate charges or determine final costs.

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