



# FREMONT Michigan

*"NOW AND ALWAYS – A Fine City • A Great Community"*

## RESOLUTION R-15-18

### A RESOLUTION ADOPTING A FREEDOM OF INFORMATION ACT POLICY FOR THE CITY OF FREMONT

**WHEREAS**, a 1996 PA 553 requires the CITY OF FREMONT to designate an individual as the City's Freedom of Information Act ("FOIA") coordinator; and

**WHEREAS**, the FOIA allows the City to make reasonable rules necessary to protect its public records;

**NOW THEREFORE BE IT RESOLVED**, the following FOIA Policy is hereby adopted:

1. **Purpose.** It is the intent of this policy to provide clear-cut procedures for citizens and City officials in disclosing public records. The intent of this policy is to comply in all respects with the FOIA, but not in the unintended event of a conflict, where the FOIA shall control and be deemed a part of this policy.
2. **FOIA Coordinator.** The City Clerk is hereby designated 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 for no less than one 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 or his/her designee prior to granting the request according to the following procedure:
  - A. Requests to review and for copies of records under the FOIA shall be in writing.
  - 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 or his/her designee shall prepare the response, with review by the City Attorney when appropriate.
4. **Exceptions-Routine Information.** Requests for information from other departments shall be handled by that department if the request is not submitted as a FOIA request and/or the requester withdraws their request as a FOIA request and:
  - A. Requests are for records routinely provided to the public by that department.
  - B. The records are readily available; or on the City's website.
  - C. The records are not exempt from disclosure under the FOIA.
  - D. The records exist at the time of the request.
  - E. The record is sufficiently described.
  - F. No other department would be likely to have the requested records.

The fees described in Section 7 of this policy shall be applicable to such requests.

5. Rules to Prevent Excessive and Unreasonable Interference with City Functions.
  - A. Records may be personally examined only during normal business hours, i.e., between 8:00 a.m. and 5:00 p.m. on City business days and such requests shall be routed through the FOIA Coordinator.
  - 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.
6. Rules to Protect Records. To protect records from loss, unauthorized alteration, mutilation, or destruction, each department may adopt rules to protect the records of his or her department. 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 are not allowed in record review rooms.
  - D. 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.
  - E. For documentation purposes, staff shall keep copies of or a list of documents released or copied.
  - F. Records may not be removed from binders.
  - G. Records within files shall be kept intact and in order.
  - H. Copies of City computer records shall be made on computer discs or flash drives provided by City.
  - I. Copies of tapes shall be made on tapes provided by the City.
  - J. 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.
  - K. Copyrighted material shall not be photocopied.
7. Fees.
  - A. Copies.
    - 10 cents per page for 8 ½" x 11" and 8 ½" x 14"
    - Actual costs for all other sized pages
    - Non-paper Physical Media such as computer discs, flash drives or other digital media devices – Actual Cost
    - If duplication requires outside services, actual cost
    - Double-sided copies shall be made when possible and is cost saving
  - B. Mailing. Actual mailing and packaging costs shall be charged at the reasonable economical and justified rate.
  - C. Labor. The labor cost to locate, separate exempt from non-exempt, and copy/duplicate records, including 40% overhead, of the lowest paid employee capable of performing such work regardless if that employee is available.
  - D. 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 in situations not covered by this policy. The City may require a deposit from the person requesting the public record or series of

public records if the fees will exceed \$25.00 as determined by a good faith estimated prepared by the FOIA Coordinator. The deposit shall not exceed one-half of the total fee for the request.

The City may require a deposit of 100% of the estimated processing fee before beginning to search for a public record if the following conditions exist:

- the final fee for a prior written request is not more than 105% of the estimated fee;
- the public records made available contained the information sought in the prior written request and remain in the City's possession;
- the public records were made available to the individual, subject to payment, within the time frame estimated by the City to provide the records;
- 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- the individual is unable to show proof of prior payment to the City; and
- the FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator shall not require an increased estimated fee deposit if any of the following apply:

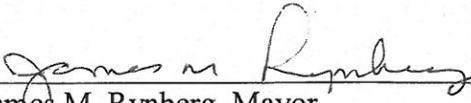
- the person making the request is able to show proof of prior payment in full to the City;
- the City is subsequently paid in full for the applicable prior written request; or
- 365 days have passed since the person made the request for which full payment was not remitted to the City.

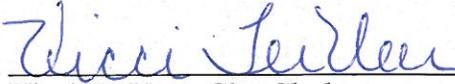
A copy of a public record shall be furnished without charge for the first \$20.00 of the fee for such request if the individual requesting such information submits an affidavit demonstrating that the individual is receiving public assistance, or if not receiving public assistance, is unable to pay the cost because of indigence consistent with the provisions of FOIA.

8. Appeals. City Manager. A requesting person before filing an appeal with the Circuit Court pursuant to Section 10 of the FOIA 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 written appeal. The City Manager may take any of the following actions in response to the filing of an appeal:
  - A. Reverse the denial.
  - B. Issue a written notice to the appellant affirming the denial.
  - C. Reverse the denial in part and issue a written notice to the appellant affirming the denial in part.
  - D. If necessary (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 is authorized to exempt from disclosure a public record pursuant to Section 13 of the FOIA, and on appeal, the City Manager is authorized to so exempt a public record.

**BE IT FURTHER RESOLVED** that this Resolution was adopted on July 20, 2015, at a meeting of the Fremont City Council held in the Council Chambers of the Fremont Municipal Building, 101 E Main St., Fremont, Michigan, is effective immediately; and hereby supersedes any prior approved FOIA policy for the City of Fremont.

Councilmember Henry moved the adoption of the foregoing Resolution, which was supported by Councilmember Conley and was there upon adopted this 20<sup>th</sup> day of July, 2015.

  
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James M. Rynberg, Mayor

  
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Vicci TerVeer, City Clerk