

CITY OF GRAND HAVEN

FREEDOM OF INFORMATION ACT
(P.A. 442 OF 1976, AS AMENDED)
PROCEDURES AND GUIDELINES

I. PURPOSE

Public Act 442 of 1976, commonly known as the Freedom of Information Act (FOIA), requires the City of Grand Haven (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.

II. POLICY

1. Upon written request, all non-exempt public records of the City will be made available for inspection and/or a copy will be provided during the regular office hours of the City, pursuant to the requirements of the Act.
2. The City Clerk is designated by the Grand Haven City Council 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 City Manager and/or City Attorney may be consulted, as needed. In the absence of the FOIA Coordinator and as necessary, other individuals may be delegated these responsibilities.
3. The FOIA coordinator will notify the City Manager and City Attorney of FOIA requests received.
4. Information that is furnished under the Freedom of Information Act will be considered public and is available to those other than the requesting party. The Clerk will not voluntarily advise parties, other than the person making the FOIA request, that the request has been filed except for the City Manager and City Attorney as noted above.
5. The FOIA Coordinator shall examine each request to determine whether the record requested is a public record or subject to exemption from disclosure by the Michigan Freedom of Information Act and respond not more than five (5) business days after the date the request is received or as otherwise provided by law by one of the following:
 - a.) Grant the request.
 - b.) Issue a written notice to the requesting party denying the request.
 - c.) Grant the request in part and issue a written response denying the request in part.
 - d.) Issue a notice extending for not more than ten (10) business days the period during which the public body shall respond to the request and set forth the reason for the extension.
6. If the FOIA Coordinator denies a request for a public record in whole or in part, the written notice shall contain one or more of the following:

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- a.) The basis for determining that the requested record, or portion of that record, is exempt from disclosure.
- b.) Certification that the public record does not exist under the name given or by another name reasonably known to the City. A record request must be an identifiable record; the request must be specific as to the information being requested. The City is not required to create a record when one does not exist.
- c.) A description of the public record or information on a public record that is separated or deleted, if a separation or deletion is made.
- d.) A full explanation of the requesting party's right to do one of the following:
 - 1.) Submit to the City Manager a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial.
 - 2.) Commence an action in the circuit court to compel the public body's disclosure of the public records within 180 days after the public body's final determination to deny the request.

7. The FOIA Coordinator shall insure that a copy of all written requests for public records is kept on file for no less than three (3) years.

8. Coordination with Departments and Offices:

The adoption of this Policy shall not be construed as interfering with the operations of City departments and offices that have independent statutory functions or responsibilities for the custody, control, and release of public records. However, those departments and offices may request the assistance of the Freedom of Information Act Coordinator with respect to requests made for access to public records under the provisions of the Freedom of Information Act and shall refer to the Freedom of Information Act Coordinator all instances where the City department or office having custody or control of the requested records:

- a.) Believes that those records may be exempt from disclosure under the Freedom of Information Act.
- b.) Determines that the requested public records do not exist or cannot be located.
- c.) Believes that the request cannot be routinely processed by the department or office in compliance with the requirements of the Freedom of Information Act.

9. Fees:

- a.) Pursuant to Section 4 of the Act, the City is authorized to charge a fee for a public record search made under the provisions of the Freedom of Information Act. 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:
 - 1.) Actual cost of searching, examining, reviewing, separating and deleting exempt from non-exempt public records subject to specific limitations and restrictions as provided in Section 14 of the Act.

- 2.) Actual cost of the necessary copying of a public record for inspection, and /or the cost of providing a copy of a public record, including labor.
 - 3.) Actual mailing costs.
- b.) 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.
 - c.) For those requests for which the fees are estimated to be over \$50, a good faith deposit may be required to be provided in advance. The deposit shall not exceed 1/2 of the total fee. The fee must be received before copies are delivered or before searching and reviewing commences, if a deposit is required.

Waiver of Fees:

- d.) 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.
- e.) A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the Freedom of Information Act Coordinator determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.
- f.) A public record search shall be made and a copy of the public record shall be furnished without charge for the first \$20 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 indigence. 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.

Approved by City Council on March 15, 2010.