

CITY OF MARQUETTE, MICHIGAN

CITY COMMISSION POLICY

Policy Number: 2002-03	Revision Date:
Date Adopted: 06-24-02	
Department: Administrative	

SUBJECT: FREEDOM OF INFORMATION ACT POLICY

PURPOSE: This policy is intended to provide clear direction to City staff and the public as regards City of Marquette compliance with the State of Michigan Freedom of Information Act

POLICY: City documents and records shall be available to the public for inspection and/or copying in accordance with the Freedom of Information Act (FOIA), upon receipt of a written request which specifically describes the exact public records desired, unless those records are exempted from disclosure by Section 13 of the Act or other law. Compliance with FOIA does not require that the City create new public records, nor make a compilation, list, summary or other report of information which does not already exist in order to satisfy a request.

All FOIA requests must be made in writing, and will include requests made by facsimile copy or electronic mail. A FOIA request received by facsimile copy, electronic mail, or by other electronic means, is deemed received the first business day following its transmission. Employees receiving written requests shall be forwarded to the FOIA Coordinator, or appropriate departmental designee, for response. The request must sufficiently describe the public record to enable the FOIA Coordinator to identify the requested public record.

The City Clerk is the designated FOIA Coordinator. The FOIA Coordinator has the authority to issue notices extending response time, or to deny requests, all or in part, on behalf of any office or department of the City. The following departments or offices, acting through the department head or City Manager, shall have limited authority to respond to requests, as well as to sign notices extending the response time for routine requests made to their respective departments or office:

Assessor	Human Resources
City Clerk	Parks and Recreation
City Manager	Police
Engineering	Public Works
Finance	Treasurer
Fire	Water and Sewer

All denials and non-routine requests should be reviewed by the City Attorney prior to response. Each designated person who accepts and answers FOIA requests must keep a copy of all written requests and responses on file for not less than one (1) year from the date of the response and should (*shall*) file with the City Clerk copies of the response form.

The FOIA Coordinator or designated department head or City Manager shall respond in writing to a FOIA request within five (5) business days of receipt, utilizing the Notice of Freedom of Information Act Response form, with one of the following actions:

1. Grant the request;
2. Deny the request;
3. Grant the request in part and deny the request in part;
4. Issue a Notice of FOIA Response extending the deadline for response not more than ten additional business days from the date of the original response deadline due to unusual circumstances. One such notice per request is permitted, and shall also include the reason(s) for the extension and the date by which the coordinator or designee shall respond to the request.

In the event of a denial of a FOIA request, in whole or in part, the Notice of FOIA Response form should explain the reason for denial as well as the requesting party's right to appeal or request judicial review of the denial. Reasons for denial include:

1. The exemption from disclosure of the public record under Section 13 of FOIA or as provided for in other statutes.
2. The record does not exist under the name provided by the requester or under another name reasonably known to the City.
3. The request was not sufficiently specific regarding the public record that is desired.
4. Such other reason as may be allowed by law.

In the event of an appeal, the Marquette City Commission shall serve as the governing body responsible for hearing the appeal. Appeals should be submitted in writing addressed to the Mayor in care of the City Manager. In its consideration of any appeal, the City Commission shall review the materials submitted by the Appellant, any written comments received from the FOIA coordinator, and such other information as the City Commission deems necessary. The Commission will address the appeal at the next regularly scheduled meeting following established submission requirements. The Commission will respond to the appeal within ten (10) days after the meeting.

The Marquette City Commission may deliberate and take one of the following actions in response to the filing of an appeal:

- a) Reverse the disclosure denial;
- b) Issue a written notice to the requesting person affirming the disclosure denial;
- c) Reverse the disclosure denial in part and issue a written notice to the requesting person affirming the denial in part.

Upon receipt of a written request or completion of a FOIA Request form, the City shall also make public documents and records available for supervised inspection. The records may be inspected

at the time of the request if the request is made at a reasonably convenient time during normal business hours of the department in which the records are held. If the request falls outside of normal business hours or is not reasonably convenient, a mutually convenient time shall be determined and the records will be made available within five (5) business days of receipt of the request. If unusual circumstances exist, an extension may be issued utilizing the procedure noted previously.

Inspection of public records shall be supervised by a City employee to insure the integrity of City records. Upon completion of the inspection, the City employee will provide copies of inspected documents as requested according to the guidelines as outlined in this policy. At no time are original City records to be removed from the office where they are being inspected and no alteration, defacement, or removal of records is permitted.

Fees shall be assessed as allowed by law for the services performed by City employees relating to the processing of FOIA requests.

1. If the City Commission has established a fee for furnishing that specific kind of record, that fee will be charged.
2. Labor costs shall be assessed for the time spent in the search for, examination of, review of, the deletion and separation of exempt from nonexempt information within the requested records if the FOIA Coordinator determines that the failure to charge such a fee with regard to a specific request would result in unreasonably high costs to the City because of the nature of that request, and the FOIA Coordinator specifically identifies the nature of those unreasonably high costs. Where the time spent by one or more City employees, individually or in the aggregate, exceeds one-half hour in performing the above described tasks, such labor costs shall be assessed: and,
3. The actual incremental cost of duplicating the requested records plus the cost of labor involved in such duplication of the requested records; and,
4. Actual mailing costs; and,
5. Such other fees and costs as may be allowed by law.

In calculating the labor costs authorized by this Policy the City shall not charge more than the amount allowed by law.

Should estimated fees exceed fifty dollars (\$50.00), a good faith deposit of one-half of the total estimated fee will be required prior to the processing of the FOIA request; otherwise, the established fee shall apply. The balance must be paid prior to the release of the public record copies. Charges for labor costs shall be determined by using the wages of the lowest paid, full-time public body employee capable of retrieving the record request.