

CITY OF ZILWAUKEE
POLICY
FREEDOM OF INFORMATION REQUEST

The following procedures are established pursuant to Section 4 (3) of Michigan's Freedom of Information Act, P.A. 442 of 1976.

1. A request for information under the FOI Act may be in two forms (Section 5 (1) FOIACT). The request must sufficiently describe the public record to enable the FOIA Coordinator to identify the requested public record.
 - A. Written - immediately note the date of receipt upon the paper and initial it.
 - B. Oral - fill out a Public Records Request Form, noting in detail the public record requested. The date is also very important.
2. Immediately confer with the City Administrator as to the status of the information requested.(See # 5, this policy) The Administrator may have to confer with legal counsel to make a determination of the status only if it is not clear whether or not the request is exempt as per FOIA, Section 15.243.
 - A. Non-exempt - prepare the information for the requestor and grant the request.
 - B. Exempt (Per Section 13, FOIACT) - the Administrator shall issue a written notice to the requestor denying the request, stating reason(s) and notifying the requestor of the right to judicial review. See attachment A for list of exemptions.
 - C. Partially exempt - grant the request in part and the Administrator shall issue a written notice denying the request in part.
3. The request shall be answered within five (5) working days after receipt. (Section 5 (2) FOI ACT) Under unusual circumstances the Administrator may issue a notice extending the response period an additional ten (10) business days. This extension may be issued only once for each request.
4. A person has the right to inspect a public record under FOIA guidelines, unless exempted by law or court order. Original public records are not to be released from the City office where the public records are secured. Copying fees shall be charged according to City policy. Other fees shall not be charged unless unreasonably high costs are incurred. In such a case these costs will be specifically identified and charged by FOIA Coordinator according to the Act - Section 4 (3). Office staff at the hourly rate of the lowest paid full-time office person and may include attorney fees at current hourly rate. The person requesting under FOIA will be notified of any fees prior to compiling their request.

5. The Administrator is the FOIA Coordinator and shall be ultimately responsible for approving or denying a request for a public record (Section 6 (1) FOI ACT). In the absence of the Administrator the following officers shall be authorized to act as the FOIA Coordinator designees: the Administrative Assistant, the Fire Dept. Administrator Assistant, the Fire Chief or the Police Chief. If the request is obviously not exempt as per FOIA, Section 165.243, the request may be granted and reported to the Administrator upon his return. If there is any question of a possible exemption, the request shall be forwarded to the City Attorney for a determination.

6. Micro cassette copies are at a rate of \$10 each.

Adopted on December 7, 1992
Public Records Request Policy
and Invoice of 11/5/84 is hereby rescinded
Revised on November 4, 2002

Richard C. DeLong
Zilwaukee City Clerk

**CITY OF ZILWAUKEE
PUBLIC RECORDS REQUEST FORM**

This form is established in accordance with the Michigan Freedom of Information Act, PA 442 of 1976, and City of Zilwaukee Policy on Freedom of Information Requests. It must be filled out for oral requests.

REQUESTOR:

Name: _____

Address: _____

Phone #: _____

DATE REQUESTED: _____

PUBLIC RECORD(S)

REQUESTED: _____

OFFICE USE:

Employee receiving request _____

Administrator's Determination: Exempt _____ yes _____ no

Non-exempt: Date information provided: _____

If extension – Date notice sent: _____

Exempt: Date notice sent: _____

FEES: (Check one)

_____ None

_____ Amount : \$ _____

_____ Copies at \$ _____ each = \$ _____

_____ Hours employee time at \$ _____ /hr. = \$ _____

_____ Other (Detailed)

FREEDOM OF INFORMATION ACT (EXCERPT)
Act 442 of 1976

15.243 Exemptions from disclosure; public body as school district or public school academy; withholding of information required by law or in possession of executive office.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(i) Interfere with law enforcement proceedings.

(ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(iii) Constitute an unwarranted invasion of personal privacy.

(iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(v) Disclose law enforcement investigative techniques or procedures.

(vi) Endanger the life or physical safety of law enforcement personnel.

(c) A public record that if disclosed would prejudice a 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, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record 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.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if

(i) The information is submitted upon a promise of confidentiality by the public body.

(ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until either of the following occurs:

(i) An agreement is entered into.

(ii) Three years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(l) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.

(m) 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 agency determination of policy or

action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of history, arts, and libraries may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(i) Identify or provide a means of identifying an informant.

(ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(iii) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(iv) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(v) Disclose operational instructions for law enforcement officers or agents.

(vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(ix) Disclose personnel records of law enforcement agencies.

(x) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department of consumer and industry services under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(i) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(ii) The fact that an allegation was received by the department of consumer and industry services; the fact that the department of consumer and industry services did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the social security number of an individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or

information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) 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 LXXXII-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.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974. A public body that is a local or intermediate school district or a public school academy shall exempt from disclosure directory information, as defined by section 444 of subpart 4 of part C of the general education provisions act, title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974, requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. A public body that is a local or intermediate school district or a public school academy may take steps to ensure that directory information disclosed under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation. Before disclosing the directory information, a public body that is a local or intermediate school district or a public school academy may require the requester to execute an affidavit stating that directory information provided under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

(3) This act does not authorize the withholding of information otherwise required by law to be made available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

History: 1976, Act 442, Eff. Apr. 13, 1977;-Am. 1978, Act 329, Iml. Eff. July 11, 1978;-Am. 1993, Act 82, Eff. Apr. 1, 1994;-Am. 1996, Act 553, Eff. Mar. 31, 1997;-Am. 2000, Act 88, Iml. Eff. May 1, 2000;-Am. 2001, Act 74, Iml. Eff. July 24, 2001;-Am. 2002, Act 130, Eff. May 1, 2002;-Am. 2002, Act 437, Eff. Aug. 1, 2002.

Popular name: Act 442

Popular name: FOIA

