

**VILLAGE OF MAPLE RAPIDS
FREEDOM OF INFORMATION ACT (FOIA) POLICY**

This policy was adopted by the Village Council of the Village of Maple Rapids on December 8, 2010. The policy identifies the procedures that Village officers and employees are to follow when processing a request in accordance with Act No. 442 of the Public Acts of 1976, as amended (the "Act").

SECTION 1.

DEFINITIONS

- Act: The Michigan Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended.
- FOIA: Freedom of Information Act.
- FOIA Coordinator: The individual, designated by the Village Council, who is responsible for accepting and processing requests for public records as outlined in this policy and the Act, and who is responsible for approving denials of requests, or that individual's designee as provided.
- Person: An individual, corporation, organization, or other legal entity, as modified by the Act.
- Public Body: The Village of Maple Rapids and its duly constituted departments, councils, boards or committees.
- Public Record: A writing which is prepared, owned, used, in the possession of or retained by a public body in the performance of an official function from the time it is created and as otherwise defined by the Act.
- Unusual Circumstances: Entails the need to search for, collect, or appropriately examine or review a voluminous amount of public records and/or the need to collect public records from numerous locations apart from the processing office.

Where not otherwise defined, the words and phrases contained in this policy shall have the meaning given to them, if any, by the Act.

SECTION 2. RIGHT TO RECORDS

A person has the right to submit a written request for public record(s) from the Village and its departments. The request must sufficiently describe the public record to enable the FOIA Coordinator to identify the requested public record.

A person has the right to inspect a public record, unless exempted by law or court order. Original public records are not to be released from the Village Offices where the public records are secured. A person may request that copies of a public record be provided subject to the payment of fees outlined in Section 4 of this policy.

A person has the right to subscribe to future issuances of regularly published public records as outlined in Section 4 of the Act for a period of six months or less, which request may be renewed.

Upon request, a person will be provided with a reasonable opportunity to examine the public records provided by the public body. Persons with special needs should contact the FOIA Coordinator to insure that arrangements for special needs or reasonable facilities are prepared.

SECTION 3. RIGHTS AND OBLIGATIONS OF THE PUBLIC BODY

The FOIA Coordinator shall provide reasonable facilities and opportunities for the person(s) to inspect public records. The FOIA Coordinator shall provide a certified copy of a public record if a person requests the same in writing.

Neither the public body nor the FOIA coordinator is obligated to create a record, list, compilation, or summary of information that does not already exist. This includes analyzing, compiling, or summarizing existing information into a new format. Neither the Public Body nor the FOIA Coordinator is obligated to provide answers to oral or written questions.

The FOIA Coordinator shall provide copies of any public records as provided for in the Act and shall retain a copy of all written requests on file for a period of not less than one (1) year. The FOIA Coordinator will follow the provisions of Section 4 of this policy.

SECTION 4. PROVISIONS FOR COPYING PUBLIC RECORDS

All FOIA requests submitted pursuant to the Act may be subject to fees and charges as follows:

The Village of Maple Rapids shall charge a cost of 50 cents for the first 10 copies and 30 cents for each page thereafter for duplication of a document; postage and handling shall also be charged as applicable and shall include the exact postage, as well as the cost for envelopes or other containers used for mailing copies of the public records requested.

The FOIA Coordinator may charge a fee for the labor involved with searching for, examining, and reviewing a public record as permitted by the Act. In determining whether to charge a fee for labor, the FOIA Coordinator shall consider the anticipated cost to the Village, the need for a devoted staff member to adequately respond to the particular request, and similar factors.

The estimated labor charges that are involved will be included on the FOIA Worksheet (see FOIA Worksheet, Attachment A). Where total fees and charges are reasonably anticipated to exceed Fifty Dollars (\$50.00), the public body is further authorized to require that fifty percent of the estimated fees and charges be paid in advance of the performance of the work as authorized by the Act. The balance must be paid prior to the release of the public record copies. The FOIA Coordinator shall not charge additional fees for certification of any copies.

Charges for labor costs shall be determined by using the wages of the lowest paid Village official or Village employee who is capable of retrieving the records requested.

The Village of Maple Rapids has limited in-house capabilities for copying photographs, audio or videotapes, microforms, maps or plans. If a person requests that copies be made of these or large documents which must be copied off-site, the FOIA Coordinator will determine and assess those costs. If an employee of the public body is required to deliver and/or pick up the public records and/or copies of public records, the labor hours spent and applicable mileage (at Village rates) will also be applied to the charges to the person(s) requesting the public records.

Copy fees and mailing charges for future issuances of regularly published public records will be arranged through the FOIA Coordinator. A person can request that a public record, which is regularly published, be sent to them or they may be called for pick up of the public record for a period of time, not to exceed six months, unless extended. The FOIA Coordinator must sign the request form to confirm that the public record is one that is regularly published.

The Village requires that an escrow deposit of \$25.00 be paid when a request for copies of regularly published public records is made to the FOIA Coordinator. The Village will charge against the escrow for the costs of copying and postage as outlined in Section 4. There will be no labor charges since this must be a public record that is routinely developed. An account sheet of the number of copies and costs for mailing will be maintained by the FOIA Coordinator. If the escrow deposit is reduced to \$5.00 or less prior to the expiration of the request, the FOIA Coordinator will contact the person for an additional deposit or termination of the request. (See FOIA Worksheet for Future Issuances, Attachment B).

SECTION 5. PROVISIONS FOR INSPECTION OF PUBLIC RECORDS

The FOIA Coordinator shall furnish the requesting person with a reasonable opportunity for inspection and examination of Village public records and furnish reasonable facilities for making memoranda or abstracts from public records available.

Any person examining public records shall bring to the examination only an erasable pencil with which to make notes or lists, etc. No pens or indelible writing instruments are allowed. No notes or writing of any kind shall be made on the documents themselves. In the event the inspection is of original Village record, the Village shall provide a monitor to ensure protection of the public records. In order to defray the cost to the Village of having records review monitored by Village personnel, a fee shall be paid to the Village for personnel time as provided in Section D of this policy.

SECTION 6. PROCEDURES OF THE PUBLIC BODY IN PROCESSING A FOIA REQUEST

Any Village official or employee receiving a written FOIA request, after recording the date received on the request, shall promptly forward the request to the FOIA Coordinator. After a person has made a written request for a public record in accordance with the Act, the FOIA Coordinator shall review and respond within five (5) business days in one of four ways:

- 1) Grant the request.

If the request indicates that the person desires to inspect the public records, the FOIA Coordinator will contact the person to arrange for inspection at a reasonable time.

If the request indicates that the person wishes to have copies of a public record prepared and/or mailed, the FOIA Coordinator may first mail a FOIA Worksheet to the person and request a fifty percent payment of the anticipated charges and fees.

Upon receiving the person's executed FOIA Worksheet, where required, along with any payment due, the FOIA Coordinator will respond by providing those public records.

2) Issue a written notice denying the request. The notice of denial shall include:

- An explanation as to why the requested public record is exempt from disclosure in accordance with the Act, or
- An explanation that the requested public record does not exist under the name given by the person or another name reasonably known to the public body, or
- An explanation or general description of information which had to be separated or deleted from the public record pursuant to Section 7 of this Policy.

In addition to the explanations noted above, the denial shall also include an explanation of the person's right to appeal the denial to the Village Council and/or seek judicial review in accordance with the Act.

3) Grant the request in part, and issue a written notice denying the request in part. In the latter instance, the public records exempted from disclosure should be treated as in (2) above.

4) Issue a written notice extending the time in which to respond to the request by ten (10) business days.

Where a written request is received which does not sufficiently describe the public records requested so as to enable the FOIA Coordinator to locate the same, the FOIA Coordinator may send notice to the person requesting a clarification of the request. Such notice, if sent, shall not be interpreted as a denial of the request for purposes of the Act of this Policy.

SECTION 7. PROCEDURES FOR SEPARATION OF RECORDS

If a request is made for an existing public record that includes information which is exempt from disclosure under the Act and information which is not exempt, the FOIA Coordinator must separate the material and make the non-exempt material

available for examination and/or copying. **All personal and private information shall be redacted from the materials being furnished prior to their release. The redacted information includes, but is not limited to: driver's license number, street address, date of birth, social security number, and telephone number. This information shall be redacted to protect the individual's right to privacy, as such information may be required for some Village processes, but is furnished with the expectation that only the Village shall have the right to access and use it. Under some circumstances the FOIA Coordinator may determine that some of this redacted information can be furnished, but only upon written request, or by order of a court of competent jurisdiction.** Additionally, the FOIA Coordinator is directed to generally describe the material which had to be separated, unless doing so would reveal the contents of the exempt information and thus defeat the purpose of the exemption. The labor cost associated with such procedures shall be treated in accordance with Section 4.

SECTION 8. DESIGNATION OF FOIA COORDINATOR

The Village Clerk is hereby designated to be the Village's FOIA Coordinator. In addition, the following officers shall be authorized to act as FOIA Coordinator designees: the Village President and the Police Chief. The FOIA Coordinator and designee shall be responsible to accept and process requests for public records and approve denials in accordance with Sections 5(4) and (5) of the Act.

SECTION 8. APPEALS

In accordance with the Act, where a person's request for a public record is denied, in whole or in part, the person shall be entitled to file a written appeal to the decision in accordance with the following process:

1. The person shall be advised by the FOIA Coordinator of the right to file a written appeal to the Village Council.
2. Where a written appeal is received by the Village in accordance with the Act, the Village Attorney shall receive a copy of the original request and appeal for his/her review.
3. Where a written appeal is received by the Village in accordance with the Act, the Village Council shall either: (i) place the appeal on the agenda for the next regularly scheduled meeting where unusual circumstances are found to exist; or (ii) consider and decide the appeal at the meeting at which it was received; or (iii) direct that a

special meeting to consider the appeal be scheduled. In its consideration of any appeal, the Village Council shall review the materials submitted by the appellant, any written comments received from the FOIA Coordinator, and such other information as the Village Council deems necessary.

4. The Village Council 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.

SECTION 9 PENALTY FOR FAILURE TO COMPLY

Any officer or employee of the Village of Maple Rapids who violates the provisions of this policy shall be subjected to disciplinary actions provided for by Village policies and applicable laws, up to and including dismissal or discharge, as well as civil and/or criminal action.

**ATTACHMENT A
FREEDOM OF INFORMATION ACT WORKSHEET**

Except for labor costs, if any, no fee will be charged to simply inspect a public record. The fees and costs outlined below are being provided in response to your written request for a copy of a public record as outlined in the Village of Maple Rapids' Freedom of Information Act Policy.

DATE THE FOIA REQUEST WAS RECEIVED: _____

PUBLIC	RECORD(S)	REQUESTED:

1. TOTAL COPYING COSTS AS ITEMIZED BELOW: \$ _____
- Village-owned copier
 - Commercial copier: Vendor or facility used: _____

Cost per copy _____ x number of copies = _____
 Cost per label _____ x number of labels = _____
 Cost per _____ x number of _____ = _____

2. TOTAL MAILING COSTS AS ITEMIZED BELOW: \$ _____
- Cost of envelopes or other mailing device: _____
 - Postage costs: _____

3. ESTIMATED LABOR COSTS AS ITEMIZED BELOW: _____
- Due to the nature of this request, a labor fee is being charged for the research, examination, review and (if applicable) the deletion and separation of exempt from non-exempt information as provided in the Village of Maple Rapids FOIA Policy.

4. TOTAL COSTS OF ITEMS 1 THROUGH 3 ABOVE \$ _____

I, _____, am requesting copies under FOIA. Based on the Village of Maple Rapids' approved FOIA Policy, I am submitting 50% of the estimated TOTAL COSTS as required, and confirm that the balance of the fees incurred will be paid before the public records are released to me. It is my understanding that the public record(s) I have requested shall be available, unless otherwise exempted, within five business days of the Village's receipt of this confirmation.

SIGNATURE: _____ DATE: _____

**ATTACHMENT B
FREEDOM OF INFORMATION ACT WORKSHEET FOR FUTURE ISSUANCES**

Under Section 4 of the Village of Maple Rapids' Freedom of Information Policy, a person can request that a public record, which is regularly published, be sent to them or they may be called for pick up of the public record for a period of time, not to exceed six months, unless extended. The FOIA Coordinator must sign the request form to confirm that the public record is one regularly published in order for this worksheet to be validated.

The Village requires that an escrow deposit of \$_____ be paid when this request is made to the FOIA Coordinator. The Village will charge against that escrow deposit for the costs of copying and postage as outlined under Section 4 of the FOIA Policy. There will be no labor charges. An account sheet of the number of copies and costs for mailing will be maintained by the FOIA Coordinator. If the escrow deposit is reduced to \$5.00 or less prior to the expiration of the term of the FOIA request, the FOIA Coordinator will contact the person for an additional deposit or termination of the request.

I, _____ have read and agree to the terms listed above:

Public record requested: _____

Period of request (not to exceed six months): _____

I request that the records be:

- Sent to me at: _____

OR

- Call to notify me that the public records are available for pickup at:
Phone: _____

Signature: _____

Date: _____

I confirm that the public record requested above is regularly published by the Village of Maple Rapids. The Village has received the escrow deposit of \$_____ and agrees to provide copies of the public record as requested for the period listed above or until the request is terminated due to lack of escrow funds for copying and postage charges as described above.

Signature of FOIA Coordinator: _____