

Category: 100

Number: 113

Subject: **FREEDOM OF INFORMATION ACT POLICY**

1. **PURPOSE:** The purpose of this policy is to establish guidelines for the acceptance and processing of requests for St. Clair County's public records under the Freedom of Information Act.
2. **AUTHORITY:** St. Clair County Board of Commissioners.
3. **APPLICATION:** This policy applies to all County Elected officials, Department Heads, Employees and Agencies of St. Clair County.
4. **RESPONSIBILITY:** The Administrator/Controller shall be responsible for the implementation and administration of this policy.
5. **DEFINITIONS:** None
6. **POLICY:**

A. FREEDOM OF INFORMATION ACT (FOIA)

It is the public policy of the State of Michigan that all persons, except those persons incarcerated in state or local correctional 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. A person has the right to submit a written request for public record(s) from the County of St. Clair. The request must sufficiently describe the public record to enable the FOIA Coordinator or designee to identify the requested public record.

The County of St. Clair has a designated individual appointed as the County's FOIA Coordinator. The FOIA Coordinator shall be responsible for accepting and processing requests for St. Clair County's public records under the FOIA and shall be responsible for coordinating Section C of this Policy. The FOIA Coordinator may designate other individual(s) to act on his or her behalf in accepting and processing requests for St. Clair County in other county departments. The County's FOIA Coordinator shall maintain a master list of all designees processing FOIA requests within the County and a copy of all official responses.

B. REQUESTOR RESPONSIBILITIES UNDER FOIA

1. The requestor of records must submit a written request for public record(s) from St. Clair County.
2. The written request must sufficiently describe the public record to enable the FOIA Coordinator or designee to identify the requested record. The FOIA Coordinator or designee may send a notice requesting clarification of the request.

Such notice shall not be interpreted as a denial. The FOIA does not require a public body to make a compilation, summary, or report of information, except as required in section 11 of the Act, if it does not already exist. This exemption includes analyzing, compiling or summarizing existing information into a new format.

3. A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription shall be valid for up to 6 months, at the request of the subscriber, and shall be renewable. This request is not automatic and the requestor must submit a separate written subscription to the FOIA Coordinator or designee.

C. COUNTY RESPONSIBILITIES UNDER FOIA

1. The FOIA Coordinator or designee shall respond to all written requests within five (5) business days, unless a notice of extension has been sent. Failure to respond to a request at all constitutes a denial. A written request made by facsimile, electronic mail, or other electronic transmission is not considered received by the FOIA Coordinator or designee until 1 business day after the electronic transmission is made.
2. If the request indicates that the requestor desires to inspect public records, the FOIA Coordinator or designee will contact the requestor to arrange for inspection of non-exempt public records. The FOIA Coordinator or designee must provide reasonable facilities so that persons making a request may examine and take notes. The facilities are only required to be available during the normal business hours of the County.
3. The custodian of a public record shall provide a certified copy of the record if requested in writing.
4. If the FOIA Coordinator makes a final determination to deny all or a portion of a request, the requestor may do one of the following:
 - (a) Submit to the St. Clair County Administrator/Controller a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial. Within 10 days after receiving a written appeal pursuant to this section, the Administrator/Controller shall do one of the following: reverse the denial; issue a written notice to the requestor upholding the denial; reverse the denial in part and issue a written notice to the requestor upholding the denial in part; or under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the Administrator/Controller shall respond to the written appeal. The Administrator/Controller shall not issue more than 1 notice of extension for a particular written appeal;
 - (b) Commence an action in the circuit court to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request. In an action commenced under this section, a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. The circuit court for the county in which the complainant resides or has his or her principal place of business, or the circuit court for the county in which the public record or

an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial.

5. The FOIA does not require a public body to make a compilation, summary, or report of information, except as required in section 11 of the Act, if it does not already exist. This exemption includes analyzing, compiling or summarizing existing information into a new format.
6. The FOIA Coordinator and designees will utilize their best efforts to respond to all FOIA requests. However, the County will search only the most likely locations for the records. Under the FOIA, the County is not required to search each and every record it maintains in order to discover material that might pertain to a specific request.
7. The FOIA Coordinator shall keep a copy of all written requests for public records on file for no less than 1 year.

D. COSTS FOR RESPONDING TO FOIA REQUESTS.

1. The County of St. Clair may charge a fee for the necessary copying of a public record for inspection or providing a copy of the public record to the requestor. The County may also charge for search, examination and review and the separation of exempt information when failure to charge a fee would result in unreasonably high costs to the County. The fee is limited to actual duplication, mailing and labor costs. The cost for duplication is .15¢ per page and the labor costs are calculated at the hourly wage of the lowest paid County employee capable of retrieving the information necessary to comply with the request.
2. A public record search shall be made and copied without charge for the first \$20.00 of the fee for each request to a requestor who is entitled to information under this act and who submits an affidavit stating that they are receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency.
3. The FOIA Coordinator or designee may require a good faith deposit from the requestor, if the fee authorized under this section exceeds \$50.00. The deposit will not exceed 1/2 of the total fee.
4. The FOIA Coordinator or designee may waive some or all of the costs associated with a FOIA request if it is determined 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.

E. APPEALS

In accordance with the FOIA, if the FOIA Coordinator or designee makes a determination to deny all or a portion of a request, the requestor may file a written appeal of the decision in accordance with Section C(4) of this Policy.

7. **ADMINISTRATIVE PROCEDURES:** None

8. ADMINISTRATOR/CONTROLLER AND LEGAL COUNSEL REVIEW: The Administrator/Controller shall sign off on all new and amended policies as to substance. The County Legal Counsel shall sign off on all new and amended policies as to legal content. These signoffs shall accompany and be completed prior to submission to the Board of Commissioners for consideration and approval.

Adopted: October 15, 2008