

## FREEDOM OF INFORMATION ACT (FOIA) POLICY

- A. **PURPOSE:** The purpose of this policy is to assure compliance with the Freedom of Information Act (Act) by the City of Saginaw (City).
- B. **DESIGNATION OF FOIA COORDINATOR:** The City Manager shall serve as the FOIA Coordinator and shall be responsible for administering this policy. In addition, the following officers shall be authorized to act as the FOIA Coordinator's designees: Executive Assistant to the City Manager, City Clerk, Deputy City Clerk, Fire Chief, Fire Department Clerical II, Police Chief, Police Department Support Services Administrator, and Police Department Office Assistant II. Where used herein, FOIA Coordinator shall mean FOIA Coordinator or designee.
- C. **DEFINITIONS:** The words and phrases contained in this policy shall have the meaning given to them, if any, by the Act.
- D. **ATTACHMENTS:** The attachment(s) to this policy may be revised, in a manner consistent with this policy, by the City Manager as needed due to changes in the law.
- E. **RECEIVING AND RESPONDING TO FOIA REQUESTS:**
- a. The FOIA Coordinator shall be responsible for accepting and processing requests for public records covered under the Act and shall be responsible for approving a denial in accordance with the Act.
  - b. All FOIA requests must be submitted in writing (Attachment A). This includes requests received by facsimile, electronic mail or through other electronic means. Requests received by facsimile, electronic mail, or other electronic transmission are not considered received until 1 business day after the electronic transmission is made.
    - i. An electronic mail request that is transmitted to a spam or junk mail folder is not considered received until 1 business day after the FOIA Coordinator becomes aware of the request.
    - ii. The FOIA Coordinator shall check the spam or junk mail folder for FOIA requests on a weekly basis and shall keep a log of when such requests are first delivered and received.
  - c. A request from a person, other than an individual who qualifies as indigent as set forth below, must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address.
  - d. A request must describe the public record sufficiently to enable the City to find the public record.
  - e. Within 5 business days after receiving a request for public records the FOIA Coordinator will:
    - i. Grant the request (Attachment B);
    - ii. Grant the request in part and deny the request in part (Attachment C);
    - iii. Deny the request (Attachment D);
    - iv. Request an extension of 10 business days for additional response time (Attachment E);  
or
    - v. Request a deposit in accordance with Section F, below (Attachment F).
  - f. Failure to respond to a request constitutes a denial if:
    - i. The failure to respond was willful and intentional; or

- ii. The request included language that would allow it to be identified as a request for public records or a request made pursuant to the FOIA.
- g. If any of the requested documents are on the City's website, the requestor shall be informed and no fee shall apply to the request unless the requestor subsequently requests copies of those public records.
- h. Notice to deny a request in whole or in part shall contain an explanation for the grounds under FOIA (or other law) for the determination that the public record or portion of the public record is exempt from disclosure.
- i. If an exemption is used to deny a request, the specific statutory citation for and verbiage of the exemption will be included in the denial. All denials must be signed by the FOIA Coordinator. All denials will also include a description of the denied record, an explanation of the requestor's right to appeal, and/or a certificate verifying that the requested record does not exist under the name given by the requestor or by another name reasonably known to the City.
- j. The FOIA Coordinator will keep on file a time stamped copy of all requests and responses for a period of 1 year following their receipt or issuance.

F. FEES:

- a. In accordance with the Act, the City will charge fees for:
    - i. The actual labor costs for searching for, locating, and examining records;
      - 1. This is the cost of labor directly associated with the necessary searching for, locating, and examining a public record in conjunction with receiving and fulfilling a granted written request;
    - ii. The actual labor costs for redacting records;
      - 1. The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession;
    - iii. Non-paper physical media;
    - iv. Paper copies;
      - 1. Copying costs may be charged if a copy of a public record is requested or for the necessary copying of a record for inspection (for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection);
    - v. The actual labor costs for duplication or publication of records;
      - 1. This is the cost of labor directly associated with duplication or publication, including making paper or digital copies or transferring digital records on non-paper physical media, through the Internet, or other electronic means as stipulated by the requestor;
    - vi. Mailing;
      - 1. The City will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner;
      - 2. The City cannot charge more for expedited shipping, insurance, or other special delivery accommodations unless specifically requested by the requestor.
- The attached Cost Worksheet shall be utilized to determine the fee charged by the City (Attachment G).
- b. Actual labor costs will be charged in 15-minute increments, rounded down. In calculating the cost of labor incurred in searching for, locating, and examining records, redacting records, and duplication or publication, the City may not charge more than the hourly wage of the lowest paid employee capable of retrieving the information necessary to comply with the request. The

City may also add up to 50% to the multiplier used to account for benefits. Subject to the 50% limitation, the City shall not charge more than the actual cost of fringe benefits.

- c. A fee shall not be charged for the cost of searching for, examining, reviewing, and deleting and separating exempt from non-exempt information unless such labor requires more than 15 minutes to complete. If such labor requires more than 15 minutes to complete, such a fee will be charged because failure to do so would result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests.
- d. If no City employee is capable of redacting the records, the City may forward such records to legal counsel for redaction. Charges for such contracted labor may not exceed 6 times the State minimum wage and must be itemized on the Cost Worksheet.
- e. Up to the first \$20.00 of the fee shall be waived for each request of an individual who is entitled to information under the Act and who submits an "Affidavit of Indigency" stating they are indigent and receiving public assistance or, if not receiving public assistance, stating facts showing their inability to pay the full fee. (Attachment H.)
  - i. An indigent individual may only receive 2 such fee waivers per calendar year.
- f. Up to the first \$20.00 of the fee shall be waived for each request of a nonprofit organization that is formally designated by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act.
- g. If the City fails to timely respond to a request, it must reduce its labor costs by 5% per day a response is late up to a maximum 50% reduction if:
  - i. The late response was willful and intentional; or
  - ii. The request included language that would allow it to be identified as a request for public records or a request made pursuant to the FOIA.
- h. The City Manager shall provide for the calculation of a fee for reproducing documents. This calculation will include paper, copy machine, and supplies cost. The City Manager shall also determine the fee to be charged for envelopes. These fees shall be reviewed periodically and shall be reflective of the City's actual costs.
- i. 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 City 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.

This section does not apply to public records prepared by City departments or offices under a separate law authorizing the sale of those public records to the public.

**G. DEPOSITS:** The City may charge a deposit if:

- a. The anticipated cost of granting the request is expected to exceed \$50.00.
  - i. In such cases, a notice to provide a good faith deposit of 50% of the cost prior to granting the request will be sent.
  - ii. The request for a good faith deposit must also include a "best efforts estimate" as to the amount of time it will take the City to fulfill the request upon receipt of the deposit.
- b. The City may require a 100% deposit from an individual who has not paid a previous FOIA fee in full. Such a deposit may only be required if:
  - i. The final fee for the prior written request was not more than 105% of the estimated fee.
  - ii. The public records made available contained the information being sought in the prior written request and are still in the City's possession.
  - iii. The public records were made available to the individual, subject to payment, within the time frame provided by law.

- iv. No fewer than 90 days but no more than 365 days have passed since the City notified the individual in writing the records were available for pick up or mailing.
    - v. The individual is unable to show proof of prior payment to the City
    - vi. The City calculates a detailed itemization that is the basis for the current written request's increased estimated fee deposit.
  - c. The City can no longer require an increased estimated fee deposit (i.e. 100% deposit) from an individual if any of the following apply:
    - i. The individual is able to show proof of prior payment in full to the City;
    - ii. The City is subsequently paid in full for the applicable prior written request; or
    - iii. 365 days have passed since the individual made the written request for which full payment was not remitted to the City.
  - d. If a deposit that is required is not received by the City within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requesting person and the City is no longer required to fulfill the request. Notice of a deposit requirement is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement will include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.
- H. APPEAL: In accordance with the Act, where a person's request for a public record is denied, in whole or in part, or the person believes the fee charged in responding to the request is excessive, the person shall be entitled to file a written appeal. The FOIA Coordinator shall forward any copy of an appeal of a full or partial denial of a FOIA request, or fee associated with preparing the response to same, to legal counsel for review. The City Council shall respond to such appeals within ten (10) business days from their receipt of same. The City Council is not considered to have received an appeal until the first regularly scheduled City Council meeting following submission of the appeal.

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

- a. Reverse the disclosure denial.
- b. Affirm the disclosure denial or fee charged.
- c. Reverse the disclosure denial in part and affirm the disclosure denial in part.
- d. Modify the fee charged.
- e. Under unusual circumstances, issue a notice extending for not more than 10 business days the period for issuing a response. The Council can only issue one 10-day extension.

If City Council fails to respond to a written appeal or upholds all or a portion of the disclosure denial/fee charged that is the subject of the appeal, the requestor may seek judicial review of the decision by commencing an action in the Saginaw County Circuit Court.

- I. PUBLIC SUMMARY: The City Manager shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit a FOIA request to the City and explaining how to understand its responses, deposit requirements, fee calculations, and avenues for challenge and appeal. (Attachment I.)
- J. PUBLICATION: The City shall post and maintain this policy, as well as the public summary, on its website, as well as provide free copies of same upon request by visitors at the City Manager's or City

Clerk's office. Either a copy of both this policy and the public summary or the website link to such documents shall be provided with any response to a FOIA request.

- K. ATTACHMENTS: The attachment(s) to this policy may be revised, in a manner consistent with this policy, by the City Manager as needed due to changes in the law.
- L. EFFECTIVE DATE: This policy shall become effective on April 15, 2019, and shall supersede any prior policies relating to the same subject.

**ATTACHMENT A - REQUEST FOR PUBLIC RECORD**

DEPARTMENT: \_\_\_\_\_

NAME OF REQUESTOR: \_\_\_\_\_

REQUESTED FORM: WRITTEN \_\_\_\_\_ ELECTRONIC \_\_\_\_\_ INSPECTION \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

DATE SUBMITTED: \_\_\_\_\_

EMAIL: \_\_\_\_\_

NAME AND BRIEF DESCRIPTION IDENTIFYING PUBLIC RECORD(S) DESIRED:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I understand that I will be responsible for the payment of all fees associated with fulfilling this request. I further understand that if I withdraw my request after the City has begun work on the request, I will be responsible for all costs incurred by the City of Saginaw up until the point of withdrawal.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_

**ATTACHMENT B – SAMPLE RESPONSE GRANTING REQUEST**

Date: \_\_\_\_\_

Requestor

Address

Dear \_\_\_\_\_:

Pursuant to your Freedom of Information Act request dated \_\_\_\_\_, received by the City of Saginaw on \_\_\_\_\_, your request for \_\_\_\_\_ has been granted. The total cost associated with responding to your request is \_\_\_\_\_. A detailed itemization is attached.

Please remit a check payable to the City of Saginaw and mail it to my attention.

If you should have any questions, please feel free to contact me. You may also find a copy of the City's FOIA policy and public summary on its website at: \_\_\_\_\_  
\_\_\_\_\_.

Respectfully,

\_\_\_\_\_

**ATTACHMENT C – SAMPLE RESPONSE GRANTING IN PART AND DENYING IN PART**

Date: \_\_\_\_\_

Requestor

Address

Dear \_\_\_\_\_:

Pursuant to your Freedom of Information Act request dated \_\_\_\_\_, received by the City of Saginaw on \_\_\_\_\_, your request for \_\_\_\_\_ has been granted in part. The total cost associated with responding to your request is \_\_\_\_\_. A detailed itemization is attached.

Please remit a check payable to the City of Saginaw and mail it to my attention.

However, a decision has been made to deny a certain portion of your request because such information (check appropriate line) \_\_\_\_\_ does not exist / \_\_\_\_\_ is exempt from disclosure pursuant to \_\_\_\_\_, which states:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You have the right to appeal this denial to the City Council in writing. Such writing must specifically state the word "APPEAL" and indicate the reason or reasons for reversal of the denial or seek judicial review in the Saginaw County Circuit Court within 180 days of the final determination to deny a request. If the Council or Court determines a public record is not exempt from disclosure, it shall order its release or production. If a Court determines that the City has been arbitrary and capricious in not disclosing a public record, it may award in addition to actual, compensatory, and punitive damages.

You may find a copy of the City's FOIA policy and public summary on its website at: \_\_\_\_\_  
\_\_\_\_\_.

Respectfully,

\_\_\_\_\_



**ATTACHMENT D – SAMPLE RESPONSE DENYING REQUEST**

Date: \_\_\_\_\_

Requestor  
Address

Dear \_\_\_\_\_:

After review of your Freedom of Information Act request dated \_\_\_\_\_, received by the City of Saginaw on \_\_\_\_\_, a decision has been made to deny your request because such information (check appropriate line) \_\_\_\_\_ does not exist / \_\_\_\_\_ is exempt from disclosure pursuant to \_\_\_\_\_, which states:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You have the right to appeal this denial to the City Council in writing. Such writing must specifically state the word "APPEAL" and indicate the reason or reasons for reversal of the denial or seek judicial review in the Saginaw County Circuit Court within 180 days of the final determination to deny a request. If the Council or Court determines a public record is not exempt from disclosure, it shall order its release or production. If a Court determines that the City has been arbitrary and capricious in not disclosing a public record, it may award in addition to actual, compensatory, and punitive damages.

You may find a copy of the City's FOIA policy and public summary on its website at: \_\_\_\_\_  
\_\_\_\_\_.

Respectfully,

\_\_\_\_\_

**ATTACHMENT E – SAMPLE NOTICE OF 10-DAY EXTENSION**

\_\_\_\_\_, Freedom of Information Coordinator

**NOTICE OF 10-DAY EXTENSION**

*City of Saginaw, Michigan*

Re: Freedom of Information Act Request of \_\_\_\_\_  
Date of Original Request: \_\_\_\_\_

According to the Freedom of Information Act, the City must respond to requests for public records within five (5) business days of the date the request is received. FOIA also provides that the City may give notice of the need for additional time, not exceeding ten (10) additional business days in which to respond to a request for public records. The City of Saginaw hereby gives notice of a need for additional time to act upon your request.

Reason for extension: \_\_\_\_\_

The City shall, therefore, on or before \_\_\_\_\_:

1. Grant your request;
2. Issue a written notice denying your request;
3. Grant your request in part and issue a written notice denying your request in part; or
4. Request a deposit in accordance with its FOIA policy.

You may find a copy of the City’s FOIA policy and public summary on its website at: \_\_\_\_\_  
\_\_\_\_\_.

Respectfully,

\_\_\_\_\_

**ATTACHMENT F – SAMPLE RESPONSE FOR GOOD FAITH DEPOSIT**

Date: \_\_\_\_\_

Requestor

Address

Dear \_\_\_\_\_:

This letter is in response to your Freedom of Information Act Request dated \_\_\_\_\_ and received by the City of Saginaw on \_\_\_\_\_.

The estimated costs of locating and copying the requested records are \_\_\_\_\_. An estimated, detailed itemization is attached.

In accordance with the Freedom of Information Act, I am requesting a good faith deposit in the amount of one-half of the cost for providing the information you are requesting in order for the City to process your request. A check in the amount of \_\_\_\_\_ should be made payable to the City of Saginaw and mailed to my attention.

Upon receipt of the deposit, the City will use its best efforts to fulfill your request by \_\_\_\_\_.

You may find a copy of the City's FOIA policy and public summary on its website at: \_\_\_\_\_  
\_\_\_\_\_.

Respectfully,

\_\_\_\_\_

**ATTACHMENT G**

**Freedom of Information Act Request Cost Worksheet**

Pursuant to the Michigan Freedom of Information Act, the following costs will be charged for responses to FOIA requests.		
<b>Paper Copies (Cost Per Copy):</b> Letter (single-sided): <u>10</u> cents per page Letter (double-sided): <u>10</u> cents per page Legal (single-sided): <u>10</u> cents per page Legal (double-sided): <u>10</u> cents per page Other: _____ Cost per page: _____	<b>Number of Pages:</b> x _____ = x _____ = x _____ = x _____ = x _____ =	<b>Total Cost</b> \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
<b>Non-Paper Physical Media:</b> Other Media (tape/disk/drive): _____ Cost: _____	<b>Number:</b> x _____ =	<b>Total Cost</b> \$ _____
<b>Labor Cost for Searching For, Locating, and Examining Records</b> (15 minute increments rounded down) Hourly Rate Charged: _____	<b>Minutes Spent:</b> x _____ =	<b>Total Cost</b> \$ _____
<b>Labor Cost for Searching For Redacting Records</b> (15 minute increments rounded down) Hourly Rate Charged: _____ Name of firm/individual if contracted labor used: _____	<b>Minutes Spent:</b> x _____ =	<b>Total Cost</b> \$ _____
<b>Labor Cost for Duplication/Publication of Records</b> (15 minute increments rounded down) Hourly Rate Charged: _____	<b>Minutes Spent:</b> x _____ =	<b>Total Cost</b> \$ _____
<b>Mailing:</b> No. 10 Business Envelope: <u>5</u> cents 9 x 12 Envelope: <u>28</u> cents 10 x 13 Envelope: <u>34</u> cents Other: _____ cents Postage US Postal Rates Apply (select method): \$ _____ per stamp \$ _____ per pound \$ _____ per package	<b>Number of Envelopes:</b> x _____ = x _____ = x _____ = x _____ = <b>Actual Postage:</b> x _____ = x _____ = x _____ =	<b>Total Cost</b> \$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
	<b>Subtotal</b>	\$ _____
<b>Indigent or Designated Non-Profit Credit</b>	<b>Subtract up to \$20.00</b>	\$ _____
	<b>Estimated Cost</b>	\$ _____
<b>Note:</b> Estimated Cost exceeds \$50.00 Good Faith Deposit of 50% required <u>before</u> request will be processed	<b>Date Paid:</b> _____	<b>Deposit:</b> \$ _____
	<b>Date Paid:</b> _____	<b>Balance:</b> \$ _____

If you believe the fee charged is excessive, you have the right to undertake either of the following actions to appeal it: 1) submit to the City Council (via the City Manager's office) a written appeal that specifically states the word "appeal" and identifies the reasons the fee is excessive; or 2) seek judicial review in the Saginaw County Circuit Court. You may also have the right to receive attorney fees and damages as provided in the Freedom of Information Act if, after judicial review, the Circuit Court determines that the City acted arbitrarily and capriciously.

**ATTACHMENT H**

AFFIDAVIT OF INDIGENCY FOR COPIES OF PUBLIC RECORDS UNDER THE FREEDOM OF INFORMATION ACT

State of Michigan     )  
                                  )ss  
County of Saginaw    )

The undersigned requests a copy of the following record(s) from the City of Saginaw, Michigan:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Pursuant to the Freedom of Information Act, the undersigned being first duly sworn deposes and says:     (Fill out either A or B)

- A.    ( )    On this date I am indigent and receiving public assistance as referred to in the Freedom of Information Act.
  
- B.    ( )    I am not receiving public assistance as referred to in the Freedom of Information Act, but I am indigent and unable to pay the cost of the copies of records which I have requested and in support of my assertion I show and swear the following facts are true:
  - 1.    That I have no funds with which to pay for the copies except \$\_\_\_\_\_.
  - 2.    That I own no property, real or personal, which could be sold to raise funds with which to pay for the copies, except \_\_\_\_\_.
  - 3.    That I **do** ( ), **do not** ( ), have a spouse who is dependent upon me for support.
  - 4.    That I **do** ( ), **do not** ( ), have minor children dependent upon me for their support.  
(Insert number \_\_\_\_\_)
  - 5.    That I owe child support payments in the amount of \$\_\_\_\_\_ per week to the Friend of the Court and an arrearage of \$\_\_\_\_\_.
  - 6.    All of my assets **do** ( ), **do not** ( ), exceed my liabilities. If liabilities exceed assets, they do so by \$\_\_\_\_\_.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public - \_\_\_\_\_ County, Michigan  
Acting in Saginaw County, Michigan  
My Commission Expires: \_\_\_\_\_

## CITY OF SAGINAW FOIA PUBLIC SUMMARY

This is only a summary of the City of Saginaw's FOIA Policy. For more details and information, a copy of the City's FOIA Policy is available at no charge at the City Manager or City Clerk's offices and on the City website at [www.saginaw-mi.com/government/citymanager/foia.php](http://www.saginaw-mi.com/government/citymanager/foia.php).

### Right to Request Public Records

All Freedom of Information Act requests must be submitted in writing to the City's FOIA Coordinator. This includes requests received by facsimile, electronic mail or through other electronic means. Requests received by facsimile, electronic mail, or other electronic transmission are not considered received until one (1) business day after the electronic transmission is made.

### City's Duty to Respond

Within five (5) business days after receiving a request for public records the FOIA Coordinator or designee will:

- Grant the request and provide records requested;
- Grant the request in part and deny the request in part;
- Deny the request because the records do not exist or are not subject to disclosure;
- Request an extension of ten (10) business days for additional response time;
- Issue a written notice indicating that the requested public record is available at no charge on the City's website; or
- Request a deposit.

### Fees

In accordance with the FOIA, the City will charge fees for:

- The actual labor costs for searching for, locating, and examining records;
- The actual labor costs for redacting records;
- Non-paper physical media;
- Paper copies;
- The actual labor costs for duplication or publication of records; and
- Mailing.

The City may charge a deposit if the anticipated cost of granting the request is expected to exceed \$50.00. In such cases, a notice to provide a good faith deposit of 50% of the cost prior to granting the request will be sent. Under limited circumstances, the City may charge a 100% deposit from an individual who has not paid a previous FOIA fee in full.

Indigent individuals and certain non-profit organizations may receive up to a \$20.00 discount or credit for fees.

### Right to Appeal

An individual has the right to undertake either of the following actions to appeal a denial of a request or fee charged in association with a request:

1. Submit to the City Council a written appeal that specifically states the word "appeal" and identifies the reasons reversal of the disclosure denial or fee charged is appropriate.
2. Seek judicial review in the Saginaw County Circuit Court.

The City Council is not considered to have received an appeal until the first regularly scheduled City Council meeting following submission of the appeal.