

Village of Beulah OFFICIAL
POLICY & PROCEDURE

November 8, 2012

Title

Freedom of Information Act (FOIA) Policy

Purpose

The Michigan Freedom of Information Act (FOIA) provides that most Village records are public information, and that each Village shall have a written Freedom of Information Act policy. The following policy is to comply with the Michigan Freedom of Information Act.

Policy & Procedure

A. Definitions.

Act: The Michigan Freedom of Information 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 or 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 Beulah 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.

B. 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, in accordance with Section 15.233 of the Act. Original public records will not 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 D of this policy.

C. 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 are 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 D of this policy.

D. Provisions for copying public records

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

Exact cost of postage, envelopes, and/or other containers used for mailing copies of the public records requested may be charged. Labor costs, including search, examination, review and the deletion and separation of exempt from non-exempt information, shall be for the actual time spent calculated on the hourly wage of the lowest paid Village official or full-time Village employee who is capable of retrieving the information necessary to comply with the request under this Act. A Deposit will be required in advance of compilation of the public records if it is determined by the FOIA Coordinator that the anticipated total cost will exceed \$50.00. The deposit will be 50% of the total anticipated cost. In the event a deposit is required, the FOIA Coordinator will not begin compilation of the public records until the deposit is received. The balance must be paid prior to the release of the public record copies.

The Village of Beulah 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 current Village rates) will also be applied to the charges to the person(s) requesting the public records. Copy fees will be charged at the rate of fifty cents (\$0.50) per page for the first six pages and twenty cents (\$0.20) for each additional page for 8 1/2x11 inch paper; copies of photographs and other documents at actual charges for copying. Fees may be reduced or waived by the FOIA Coordinator if the waiver or reduction is in the public interest because the request will primarily benefit the general public. Fees may be waived by the FOIA Coordinator up to the first \$20 for each individual entitled, if the individual is on public assistance. Fees may be waived upon a showing of other factors showing inability to pay. All such requests shall be in writing and shall be sworn to by the person requesting the waiver. 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. An escrow deposit of \$25.00 may be charged to the applicant to cover the costs of this service as determined by the FOIA Coordinator.

E. 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 during usual business hours.

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 records, the Village shall provide a monitor to ensure protection of the public records. In order to defray the cost to the Village of having the 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.

F. Procedures of the Public Body to Process the 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. The FOIA Coordinator shall review the request, and issue a written notice to the requesting party within five (5) business days, doing one of the following:

1. Grant the request
2. Issue a written notice denying the request.
3. Grant the request in part and issue a written notice to the requesting person denying the request in part.
4. Issue a notice extending for not more than 10 business days the period during which the Village shall respond to the request. The Village shall not issue more than 1 notice of extension for a particular request.

Failure to respond to the request constitutes denial.

G. 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 D.

H. Designation of FOIA Coordinator

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

I. 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 of the decision as follows:

The person shall be advised by the FOIA Coordinator of the right to file a written appeal to the Village Council. Where a written appeal is received by the Village Council in accordance with the Act, the Village council shall either (a) place the appeal on the agenda for the next regularly scheduled meeting where unusual circumstances are found to exist; or (b) consider and decide the appeal at the meeting at which it was received; or (c) direct that a special meeting to consider the appeal be Freedom of Information Act (FOIA) Policy, 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. The Village Council may deliberate and take one of the following actions in response to the filing of an appeal:

- i) Reverse the disclosure denial.
- ii) Issue a written notice to the requesting person affirming the disclosure denial.
- iii) Reverse the disclosure denial in part and issue a written notice to the requesting person affirming the denial in part.

1. J. Penalty for Failure to Comply. Any officer or employee of the Village of Beulah who violates the provisions of this policy shall be subject 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.