

CITY OF WHITE CLOUD
Newaygo County, MI

RESOLUTION 2024-45
A RESOLUTION TO ESTABLISH FREEDOM OF INFORMATION ACT (FOIA)
POLICY

At a regular meeting of the White Cloud City Council, Newaygo County, Michigan, held on the 3rd day of September 2024:

WHEREAS the City of White Cloud is a public body within the meaning of the Freedom of Information Act, as amended, being Public Act 442 of 1976 (known as “The Act”); and

WHEREAS, the declared public policy of the State of Michigan, as set forth in Public Act 442 of 1976 of the Act, is that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding governmental, decision-making in a manner consistent with the provisions of the Act; and

WHEREAS, in its capacity as a public body, the City of White Cloud creates, possesses and maintains certain records which fit within the definition of the term “public records”, as that term is defined and used in the Act; and

WHEREAS, the City of White Cloud is required by the provisions of the Act to grant requests by person or corporations desiring to inspect or receive copies of public records which describe the public record sought sufficiently to enable the public body to find the public record, except as provided in PA 442, 1976; and

WHEREAS, The Act permits a public body to charge a fee for providing a copy of public records as enumerated therein and requires that it establish and publish procedures and guidelines to implement the provisions of the Act regarding the calculations of costs and the applicable procedures and guidelines; and

WHEREAS, the City of White Cloud desires to establish procedures, guidelines and fees in accordance with and pursuant to the provisions of The Act for application to and for use in connection with request received by it pursuant to The Act for the inspection or receipt of copies of public records including but not necessarily limited to, the actual cost of labor incurred in the examination, review, separation and deletion, duplication and mailing of non-exempt public records in response to requests for copies of said public records, and, in appropriate circumstances, the actual cost of labor incurred in the search, examination, review and the deletion and separation of exempt from non-exempt material as provided for in PA 442 of 1976;

NOW THEREFORE, THE CITY OF WHITE CLOUD RESOLVES THAT:

1. The City of White Cloud Clerk is hereby designated as the FOIA Coordinator for the City of White Cloud.
2. The office of the FOIA Coordinator shall be deemed to be at the White Cloud City Office building, Office of the Clerk.
3. The FOIA Coordinator is hereby empowered to designate another individual to act on his or her behalf in accepting and processing requests for public records, and in approving a denial under the pertinent sections of the Act.
4. Any person seeking to inspect or receive a copy of a public record shall submit his or her request for a public record or records in writing to the FOIA Coordinator or his/her designee. The word "writing" as used in this resolution means handwriting, typewriting, printing, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds or symbols, or combination thereof, and papers, maps, photographic films or prints, discs, or other means of recording or retaining meaningful content. The words "written request" as used in this resolution shall mean and include a writing that asks for information, and includes a writing that asks for information, and includes a writing transmitted by electronic mail or other electronic means.
5. Each such written request shall be submitted to the FOIA Coordinator, or his or her designee. The FOIA Coordinator shall distribute the request to all applicable departments, who shall return the information to the FOIA Coordinator.
 - a. Request for information from the White Cloud Police Department shall be handled pursuant to the Police Department's FOIA Policy and shall be forwarded to the Police Department's Chief.
6. Each such written request which is delivered in person or by ordinary or certified mail shall be deemed to have been received on the date it is delivered to the FOIA Coordinator, or his or her designee, and such receipt shall be documented as to the time at and date on which it was received in the clerk's office.
7. Each such written request which is delivered by electronic mail or other electronic means shall be deemed to have been received on the next business day after the electronic transmission is made and delivered to the FOIA Coordinator, or his or her designee, and such receipt shall be documented as to the time at and date on which it was received in the clerk's office.
8. Each such written request shall be retained by the FOIA Coordinator on file for not less than one year.
9. Each such request shall describe the public record or records requested sufficiently to enable the clerk to find said public record.
10. After searching for and, if possible, locating the requested public record or records, said public record or records shall be examined and reviewed by the FOIA Coordinator, or his or her designee, and separated and deleted from other public records not included in said request.
11. Any requested public record or records that is or are found shall be first searched, examined and reviewed by the FOIA Coordinator, or his or her designee, to determine it is or they are wholly exempt from disclosure or, if it contains or they contain both exempt and non-exempt material.
12. If the public record or records is or are determined to contain both exempt and non-exempt material, the non-exempt material shall be separated from the exempt

- material and the non-exempt material shall be made available for the requesting person's examination and copying.
13. All public records determined to be exempt in whole or in part shall be denied to the requesting person in a written Notice of Denial provided to him or her.
 14. All responses to requests for inspection or copies of public records shall be made immediately, if reasonably possible, but in no case more than 5 business days after the day the request is received, unless an extension as allowed by law has been requested and shall:
 - a. Grant the request,
 - b. Deny the request in writing provided to the requesting person, or
 - c. Grant the request in part and issue a written notice to the requesting person denying the request in part,
 - d. Issue a notice extending for not more than 10 (ten) business days the period during which the City shall respond to the request; provided, that not more than 1 (one) notice of extension the period for response is issued, it shall contain the reasons for such extension and date by which the City will grant the request, deny the request in writing provided to the requesting person, or grant the request in part and issue a written notice to the requesting person denying the request in part.
 15. A written Notice of Denial shall contain:
 - a. An explanation of the basis under the Act or other statute for the determination that the public record, or the portion thereof is exempt from disclosure, if that is the reason for denying the request or a portion of the request.
 - b. A certificate that the public record does not exist under the name given by the requesting person or by another name reasonably known to the public body, if that is the reason for denying the request or a portion thereof.
 - c. A description of a public record or information on a public record which is separated or deleted as provided in the "Act" if a separation or deletion is made.
 - d. A full explanation of the requesting person's right to do either of the following:
 - i. Submit a written appeal to the City Manager that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or
 - ii. Seek judicial review within 180 days after the City's final determination to deny a request under the "Act". Notification of the right to judicial review shall include notification of the right to received attorney's fees and damages as provided in the "Act" if, after judicial review, the circuit court determines that the City is not complied with the provisions of the "Act" and orders disclosure of all or a portion of a public record.
 16. In the event of a written appeal the City Manager shall, within 10 (ten) days after receiving the written appeal, do 1 (one) of the following:
 - a. Reverse the disclosure denial.
 - b. Issue a written notice to the requesting person upholding the disclosure denial.

- c. Reverse the disclosure denial in part and issue a written notice to the requesting person, upholding the disclosure denial in part,
 - d. Under unusual circumstances (as where there is a need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant from numerous field offices, facilities, or other establishments which are located apart from the City), a notice extending for not more than 10 (ten) business days the period during which the City of White Cloud shall respond to the appeal may be issued; provided, however, that not more than 1 (one) such notice may issue for such an extension for a particular request.
17. A requesting person who is granted a right to inspect a requested public record or records shall be furnished a reasonable opportunity for inspection and examination of such public record or records together with reasonable facilities for making memoranda or abstracts from same during usual business hours. Such inspections and examination shall be conducted by the requesting person in the presence of such employees of the City of White Cloud and under such conditions as the FOIA Coordinator, or his or her designee, might require in order to protect its public records and to prevent excessive and unreasonable interference with the discharge of municipal functions.
18. The following fees shall be charged and paid by the requesting person in connection with request to inspect or copy public records pursuant to the Freedom of Information Act:
 - a. Photocopy expense: \$0.10 per page for 8 ½"x11" and 8 ½"x14" or actual costs for all other sized pages. Non-Paper Physical Media such as computer discs, flash drives or other digital media devices – Actual Cost.
 - b. Actual mailing and packaging costs shall be charged at the reasonable economical and justified rate.
 - c. The labor cost to locate, separate exempt from non-exempt, and copy/duplicate records, including 40% overhead of the lowest paid employee capable of performing such work regardless if that employee is available.
19. In case where the estimated actual cost to the City of responding to a request for the inspection or receiving of a copy of a public record exceeds \$50.00, a good faith deposit equal to ½ (half) of the estimated cost of such response shall be required at the time the request is received.
20. A copy of a public record shall be furnished, without charge for the first \$20.00 of the fee for each request, to an individual who submits an affidavit that he or she is receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of being indigent.
21. Notwithstanding anything contained herein to the contrary, all information and records of the type specifically described in "The Act", as amended, are hereby declared to be exempt from disclosure as a public record under either this Resolution or the Act.

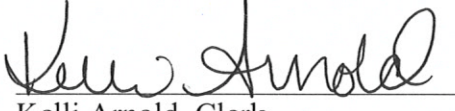
Council member Dault **Moved**, the adoption of the forgoing resolution, which was **Supported** by Council member Anici, thereupon adopted this 3rd day of September 2024, at a regular meeting of the White Cloud City Council, Newaygo County, Michigan.

Vote: Ayes: All

Nays: NONE Absent: Barnhard Abstained: NONE


The Mayor declared the resolution Adopted.


Brian J. Miller, Mayor


Kelli Arnold, Clerk

Certification

I, Kelli Arnold, Clerk of the City of White Cloud, hereby certify that the foregoing is a true copy of a resolution duly adopted by the White Cloud City Council as a regular meeting thereof held September 3, 2024, and of the whole thereof from the records of the minutes of the meetings in my possession.


Kelli Arnold, City Clerk White Cloud, Michigan

