

Chapter 5-A - Public Records

1. Definitions.

1.1 The words and phrases, "Person", "Public Body", and "Public Record", when used in this Chapter shall have the respective meanings therefore provided in Section 2 of Act No. 442 of the Public Acts of 1976.

1.2 "Act" as used in this Chapter means Act No. 442 of the Public Acts of 1976.

2. Public Records Exempt from Disclosure.

2.1 The following public records are exempt from disclosure as public records under the Act:

- a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy, except as otherwise regulated by other code provisions of the City of Troy.
- b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:
 - (i) Interfere with law enforcement proceedings.
 - (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.
 - (iii) Constitute an unwarranted invasion of personal privacy.
 - (iv) Disclose the identity of a confidential source, or if the record is compiled by a criminal law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.
 - (v) Disclose law enforcement investigative techniques or procedures.
 - (vi) Endanger the life or physical safety of law enforcement personnel.
- c) A public record which if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this Act outweighs the public interest in non-disclosure.
- d) Records or information specifically described and exempted from disclosure by statute.
- e) A public record or information described in this section which is furnished by the public body originally compiling, preparing, or receiving the record or

Chapter 5-A - Public Records

information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

- f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:
 - (i) The information is submitted upon a promise of confidentiality by the public body.
 - (ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.
 - (iii) The description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision shall not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.
- g) Information or records subject to the attorney-client privilege.
- h) Information or records subject to the physician-patient, psychologist-patient, minister, priest or Christian Science practitioner, or other privilege recognized by statute or court rule.
- i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the time for the receipt of bids or proposals has expired.
- j) Appraisals of real property to be acquired by the public body until (i) an agreement is entered into; or (ii) 3 years has elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.
- k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this Act outweighs the public interest in non-disclosure.
- l) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.
- m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual

materials and are preliminary to a final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communications between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of Act no. 267 of the Public Acts of 1976, being section 15.268 of the Michigan Compiled Laws. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Michigan Compiled Laws.

- n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, which if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in non-disclosure in the particular instance.
- o) Unless the public interest in disclosure outweighs the public interest in non-disclosure in the particular instance, public records of a police or sheriff's agency or department, the release of which would do any of the following:
 - (i) Identify or provide a means of identifying an informer.
 - (ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
 - (iii) Disclose the personal address or telephone number of law enforcement officers or agents or any special skills that they may have.
 - (iv) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of law enforcement officers or agents.
 - (v) Disclose operational instructions for law enforcement officers or agents.
 - (vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.
 - (vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.
 - (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informer.

Chapter 5-A - Public Records

- (ix) Disclose personnel records of law enforcement agencies.
- (x) Identify or provide a means of identifying residences which law enforcement agencies are requested to check in the absence of their owners or tenants.

2.2 This section does not authorize the withholding of information otherwise required by law to be made available to the public, or to a party in a contested case under Act No. 306 of the Public Acts of 1969, as amended.

2.3 Whenever the exemption of public records from disclosure under Section 2 shall be contingent upon a determination of an effect resulting from disclosure or non-disclosure including, without limitation, the determination that the public interest in disclosure under the Act outweighs the public interest in non-disclosure, the determination shall be made by the City Manager, unless the Act requires otherwise. A determination of non-disclosure by the City Manager is appealable to the City Council.

3. Examination of Public Records.

3.1 Nonexempt public records may be examined as provided by this Act.

3.2 The City Manager is hereby empowered, subject to Council approval, to make reasonable rules necessary to protect the City's public records and to prevent excessive and unreasonable interference with the discharge of City functions by persons examining public records.

4. Copies of Public Records.

4.1 Copies of nonexempt public records shall be made available upon request as required by the Act.

4.2 The City Manager is hereby empowered, subject to the approval of the Council, to establish procedures and guidelines as required by Section 4(3) of the Act in establishing fee and charges for providing copies of public records. Upon approval by the Council, the procedures and guidelines shall be published one time in the Official Newspaper.

4.3 The City Manager is hereby empowered, subject to the approval of the Council, to establish the subscription price for council proceedings and for any other public records which are created, issued, or disseminated on a regular basis.

4.4 Until the procedures and guidelines required by Section 3.2 have been approved, copies of nonexempt public records shall be furnished at a charge not to exceed the City's actual out of pocket cost based on the hourly wage of the lowest paid, full-time permanent employee in the city department furnishing the copy, and shall exclude any cost for search, examination, review or the deletion or separation of exempt from

Chapter 5-A - Public Records

nonexempt information. No charge for the first \$20.00 of the fee shall be made to any individual entitled to this exemption because of receipt of public assistance or indigency as provided in Act No. 442 of the Public Acts of 1976.