

**CITY OF REHOBOTH BEACH**  
**FREEDOM OF INFORMATION ACT POLICY**

**SECTION 1 – PURPOSE**

The purpose of this policy is to prescribe procedures relating to the inspection and copying of public records retained by the City of Rehoboth Beach pursuant to 29 Del.C. Chapter 100, the State of Delaware Freedom of Information Act. It is the City’s goal in establishing this policy to maximize the amount of information available to the public, establish a reasonable fee structure for providing public records and to streamline procedures used to disseminate this information. 29 Del.C. §10003 provides:

*“(a) All public records shall be open to inspection and copying during regular business hours by the custodian of the records for the appropriate public body. Reasonable access to and reasonable facilities for copying of these records shall not be denied to any citizen; (b) all State agencies and public bodies shall implement and promulgate a policy for addressing requests made under the Freedom of Information Act; (c) all State agencies and public bodies shall develop a web portal for receiving FOIA requests through the internet. Such portals shall utilize the standard request form promulgated by the Attorney General; (d) all State agencies and public bodies are to provide reasonable assistance to the public in identifying and locating public records to which they are entitled access, and all records held by the agency are “public records” to which the public should have access unless they fall within the scope of enumerated exceptions in §10002.”*

This policy applies to the City in responding to requests from the public for information as set forth in the FOIA.

It is the intent of the City of Rehoboth Beach that public business be performed in an open and public manner so that the public shall be advised of the performance of officials and their decisions. In accordance with FOIA, the public has the right to “reasonable access” to public records. The Act provides that it is the responsibility of the public body to establish rules and regulations regarding access to public records as well as fees charged for copying of such records. It is the policy of the City of Rehoboth Beach that all employees shall comply with FOIA and all requests for information shall be processed in the manner prescribed below.

**SECTION 2- DEFINITIONS**

*“FOIA”* – 29 Del.C. Chapter 100, the State of Delaware Freedom of Information Act.

*“FOIA Coordinator”* – the City Secretary or his/her designee for the City of Rehoboth Beach to serve as the point of contact for FOIA requests and coordinate the City’s responses thereto. The City Secretary shall be identified on the City’s website and may designate other employees to perform specific duties and functions.

*“FOIA Request” or “Request”* – a request to inspect or copy public records pursuant to 29 Del.C. 10003.

*“FOIA Request Form”* – the form promulgated by the Office of Attorney General upon which requests for public records may be made.

*“Public Record”* – information of any kind, owned, made, used, retained, received, produced, composed, drafted or otherwise compiled or collected, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded or reproduced.

*“Requesting Party”* – any individual, organization or business filing a request for information under the Delaware Freedom of Information Act.

“City” – the City of Rehoboth Beach.

“Department” – a department of the City of Rehoboth Beach.

“Exempt” – information determined by the FOIA Coordinator and/or City Solicitor to constitute a record that shall not be deemed public in accordance with 29 Del.C. 10002(l).

### **SECTION 3 – AVAILABILITY OF RECORDS**

#### 3.1) Access

- (A) The City will provide reasonable access and facilities for reviewing public records during regular business hours.
- (B) The City shall make all requested records available for review by the requesting party unless such records or portions of records are determined by the FOIA Coordinator to be exempt pursuant to 29 Del.C. §10002(l) – see Section 6 of this policy for listing.

#### 3.2) City Records Review

- (A) Prior to disclosure, records will be reviewed by the City to insure that those records or portions of records deemed non-public may be removed pursuant to 29 Del.C. §10002 or any other applicable provision of law.
- (B) Upon request, the City will provide a log of records which may have been deemed non-public. The log will include the following information:
  - (1) The document’s author;
  - (2) The addressee;
  - (3) The date of the document;
  - (4) The title of the document or a brief explanation of the document’s contents; and
  - (5) The statutory exemption.
- (C) The types of records deemed non-public are as contained in 29 Del.C. §10002(l) (See Section 6).

### **SECTION 4 – REQUEST FOR PUBLIC RECORDS**

All FOIA requests shall be made in writing to the FOIA Coordinator for the City of Rehoboth Beach and shall be presented in person, by U.S. mail, by email, by fax or online, and shall adequately describe the record sought in sufficient detail to enable the City to locate the record with reasonable effort. The FOIA Coordinator or his/her designee, working in cooperation with other employees and representatives, shall make every reasonable effort to assist the requesting party in identifying the records being sought, and to assist the City in locating and providing the requested records. In addition, the FOIA Coordinator shall maintain a document tracking all FOIA requests. Any department that receives a request for a “public record(s)” shall ascertain from the requesting party the specific materials requested.

If a department is not sure that a requested item is a “public record”, the request for documentation should be forwarded to the FOIA Coordinator for consultation with the City Solicitor in determining if the requested documents are a “public record” and fall under the jurisdiction of the FOIA.

If a requesting party wants to review original materials, a staff member may be assigned to monitor the review to insure that the integrity of all materials is maintained. A monitor may be required at other times at the discretion of the FOIA Coordinator or designee.

4.1) Types of Access Allowed/Requests for Records

If a requesting party wants to listen to recorded oral dialogue, proper supervision must be ensured in order to protect the material from damage or loss.

- (A) Public records shall be open to inspection and copying.
- (B) Reasonable access and facilities shall be provided for reviewing public records during regular business hours.
- (C) If the requested record is not in active use and in storage, then an appointment shall be made for access.

4.2) Response to Requests

- (A) The City shall respond to a FOIA request as soon as possible, but in any event within fifteen (15) business days after the receipt thereof, either by providing access to the requested records, denying access to the records or parts of them, or by advising that additional time is needed because the request is for voluminous records, requires legal advice or a record is in storage or archived.
- (B) If access cannot be provided within fifteen (15) business days, the City shall cite one of the reasons hereunder why more time is needed and provide a good-faith estimate of how much additional time is required to fulfill the request.
- (C) If the City denies a request in whole or in part, the City's response shall indicate the reasons for the denial.
- (D) The City shall not be required to provide an index or any other compilation, as to each record or part of a record denied.

4.3) Requests for E-Mail Records

- (A) The City shall fulfill requests for email records from its own records, if doing so can be accomplished by the City with reasonable effort.
- (B) If the City determines that it cannot fulfill all or any portion of such request, the City shall promptly request that its internet service provider or custodians provide the email records to the City.
- (C) Before requesting the internet service provider or custodians to provide email records, the City shall provide an itemized written cost estimate to the requesting party, listing all charges expected to be incurred in retrieving such records.
- (D) Upon receipt of the estimate, the requesting party may decide whether to proceed with, cancel or modify the request.

4.4) Requests for Other Non-Custodial Records

- (A) If all or any portion of a FOIA request seeks records controlled by the City but are not within its possession or cannot otherwise be fulfilled by the City with reasonable effort from the records it possesses, then the City shall promptly request that the relevant custodian provide the non-custodial records to the City.
- (B) Before requesting any non-custodial records, the City shall provide an itemized written cost estimate to the requesting party, listing all charges expected to be incurred in retrieving such records.
- (C) Upon receipt of the estimate, the requesting party may decide whether to proceed with, cancel or modify the request.

4.3) FOIA Request Document Log

- (A) The FOIA Coordinator for the City of Rehoboth Beach shall maintain a FOIA Request Document Log which shall include, at a minimum:
  - (1) Requesting party's contact information;
  - (2) Date the City received the request;
  - (3) City's response deadline;
  - (4) Date of the City's response (including the reasons for any extension);
  - (5) Names, contact information and dates of correspondence with individuals contacted in connection with requests;
  - (6) Dates of review by the City;
  - (7) Names of individuals who conducted such reviews;
  - (8) Whether documents were made available;
  - (9) Amount of copying and/or administrative fees assessed;
  - (10) Date of final disposition.

**SECTION 5 – FEES FOR COPYING AND RESEARCH**

5.1) Duplicating/Copying Fees

The following are duplicating/copying charges for providing public records:

(A) Duplicating/Copying Fees. The following are duplicating/copying charges for providing public records:

- (1) Black and White Printed, Typed or Written Material
  - (a) Cost for duplication or publication, including labor, for standard sized, black and white copies of public records shall be \$0.50 per page for 8.5" x 11", 8.5" x 14" and 11" x 17" sized paper.
  - (b) Cost for duplication or publication, including labor, for black and white copies of drawings, plots, plans and maps shall be \$15.00 per page for larger than 11" x 17" sized paper.

- (c) A minimum fee of \$1.00 per request shall be charged for standard-sized copies. Two-sided copies shall be considered as two copies.

(2) Color Printed, Typed or Written Material

- (a) Cost for duplication or publication, including labor, for standard sized, color copies of public records shall be \$1.00 per page for 8.5" x 11", 8.5" x 14" and 11" x 17" sized paper.
- (b) Cost for duplication or publication, including labor, for color copies of drawings, plots, plans and maps shall be \$45.00 per page for larger than 11" x 17" sized paper.
- (c) A minimum fee of \$1.00 per request shall be charged for standard-sized copies. Two-sided copies shall be considered as two copies.

(3) Adhesive Labels

The cost of printed adhesive labels shall be \$0.15 per label.

(4) Electronic Records

Charges for copying records maintained in an electronic format will be calculated by the material costs involved in generating the copies (including, but not limited to: electronic storage media) and administrative costs. Actual costs shall be assessed for copying computer generated records and providing other materials such as computer discs, etc.

- (a) In the event that requests for records maintained in an electronic format can be electronically provided to the requesting party, only the administrative charges in preparing the electronic records will be charged.

(5) Recordings of Oral Dialogue

Administrative fees will be billed to listen to recorded oral dialogue

(6) Computer Generated Stored Information

Administrative fees will be billed to produce computer generated paper copies of computer-stored information or copies stored on electronic media.

(7) Published Documents

- (a) Zoning Ordinance: \$30.00
- (b) City Charter: \$30.00
- (c) Subdivision Regulations: \$10.00
- (d) Comprehensive Development Plan: \$40.00
- (e) Zoning Map (black/white): \$10.00
- (f) Zoning Map (color): \$30.00

(B) Administrative Fees. The following are administrative fees for providing public records:

(1) Actual Labor Costs

City staff time utilized to fulfill a request for records shall be billed at an hourly rate of \$20.00. Staff time charges will be billed to the requesting party per quarter hour. Staff time charges will be in addition to any duplicating/copying charges. Charges for actual staff time costs include:

- (a) Staff time associated with processing FOIA requests;
- (b) Locating and reviewing files;
- (c) Monitoring file reviews;
- (d) Generating computer records (electronic or print-outs); and
- (e) Any other time rendered by the employee in researching, examining, developing, duplicating, reviewing and separating exempt from non-exempt information that has been requested.

(2) Other Costs

Any other actual costs associated with fulfilling a request for information, such as postage, shall be at the expense of the requesting party. Administrative fees shall not include any cost associated with the City's legal review of whether any portion of the requested records is exempt from FOIA.

If the City does not have the resources or equipment to duplicate requested records, the City may arrange to have records duplicated by an outside contractor. In this instance, the requesting party will be responsible for payment of these costs.

The requesting party shall be provided an estimate of the costs involved to fulfill their request for information. In providing access to public records, the FOIA Coordinator may take necessary and reasonable action to protect the City's public records and to prevent excessive and unreasonable interference with the discharge of the City's functions. This policy does not require the City to make a compilation, summary or report of information.

5.3) Waiver of Fees

The FOIA Coordinator or designee shall have the authority to determine if a fee for a FOIA request shall be waived and the following criteria shall be used to render such a decision:

- (A) The public record is already available in duplicate form (extra copies);
- (B) The request for public record is made by an individual who is entitled to information under the FOIA and who submits an affidavit, provided by the City, which shall state that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigence. A person shall be considered indigent if that person's income level is at or below the federal poverty level as established by the Bureau of Census.

5.4) Payment

- (A) Payment for copies and/or administrative charges will be due at the time copies are released to the requesting party. The City reserves the right to refuse to make copies for requesting parties who have outstanding balances related to FOIA services.
- (B) The City may require pre-payment of copying and administrative charges prior to mailing copies of requested records.
- (C) A good faith deposit must be provided in advance for those requests for which the fees are estimated to be over \$50.00. The deposit shall not exceed one-half (1/2) of the total estimated fee.
- (D) The fee must be received before copies are delivered or before searching and reviewing commences, if a deposit is required.

**SECTION 6 – EXEMPT RECORDS**

Those records that are deemed non-public are as contained in 29 Del.C. §10002(l).