

**CITY OF DOVER ORDINANCE #2014-07**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:**

That the City of Dover Code of Ordinances be amended by striking *Chapters 51-53 Reserved* and inserting *Chapter 51-Reserved and Chapter 53-Reserved*.

**BE IT FURTHER ORDAINED:**

That the Dover Code of Ordinances be amended by creating a new Chapter 52 - Freedom of Information Act Related to Public Records Access, to read as follows:

**Chapter 52 - Freedom of Information Act Related to Public Records Access**

**Sec. 52-1. Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City* means the City of Dover.

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

*FOIA Coordinator* means the City Clerk for the City of Dover or his/her designee.

*FOIA request* or *Request* means a request to inspect or copy public records pursuant to 29 Del. C. §10003.

*Public record* means information of any kind that is owned, made, used, retained, received, produced, composed, drafted, or otherwise compiled or collected by any public body, 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, except those records deemed not public under 29 Del. C. §10002(1).

**Sec. 52-2. Adoption of Policy Related to Public Records Access.**

The City Council shall adopt, implement, and promulgate a Freedom of Information Act (FOIA) policy for addressing requests for public records. Except as otherwise provided in this chapter, the City of Dover FOIA policy shall be consistent with the Delaware Freedom of Information Act, Title 29, Chapter 100 of the Delaware Code. A copy of the City's policy shall be maintained in the office of the city clerk.

**Sec. 52-3. Fees for Responding to FOIA Requests.**

Fee assessment and payment procedures related to FOIA requests shall be as provided for in Appendix F - Fees and Fines.

**BE IT FURTHER ORDAINED:**

That Appendix F - Fees and Fines, be amended by inserting text as follows:

<i>Chapter 52 - Freedom of Information Act Related to Public Records Access</i>			
Sec. 52-3 - Fees for Responding to FOIA Requests.			
Administrative Fees		First 30 minutes of staff time	No charge
		Staff time in excess of 30 minutes	Hourly salary plus overhead rate of the lowest paid staff member capable of performing the service. Billed in 15-minute increments.
Production Fees	Photocopies	Fees for printing the first 10 standard-sized black and white or the first 5 color copies (single sided)	Waived
		Standard-sized (8.5" by 11", 8.5" by 14", or 11" by 17") black and white copies	\$0.25 per sheet (each side)
		Standard-sized (8.5" by 11", 8.5" by 14", or 11" by 17") color copies	\$0.50 per sheet (each side)
		Oversized copies (larger than 11" by 17")	\$30.00 per sheet (each side)
	Electronically generated records	Files provided via PDF (via email)	No charge
		CD or DVD (including case)	\$2.00
		Other Electronic Storage Costs	Material cost to generate records
Other Costs	Other costs associated with filling the request, such as postage, are the responsibility of the requestor. If the City does not have the resources or equipment to duplicate requested records, the City, at its discretion, may arrange to have records duplicated by an outside contractor. In this instance, the requestor will be liable for payment of these costs.		

Fee Waivers	<p>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:</p> <ol style="list-style-type: none"> <li>1) The public record is already available in duplicate form (extra copies).</li> <li>2) 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 upon request, 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 the Census.</li> <li>3) No written request will be required or charges levied for requests to review specific documents which are required by ordinance to be made available to the public by the City Clerk.</li> </ol>
Payment	<p>Payment of fees related to FOIA requests will be due prior to any related service being performed. Full payment of all final costs incurred must be received prior to the retrieval and release of information.</p>

ADOPTED: APRIL 28, 2014

**SYNOPSIS**

The Delaware Freedom of Information Act (FOIA) states that all public bodies shall implement and promulgate a policy for addressing requests made under FOIA and that fees charged in responding to requests for public records must adhere to those set forth in the Delaware FOIA, unless otherwise set forth in the Delaware Code or any applicable code of a municipal public body. The ordinance would mandate that the City adopt a FOIA policy and would codify the fees charged by the City in relation to FOIA requests.

(SPONSORS: HARE, McDOWELL)

Actions History

- April 28, 2014 - Final Reading/Adoption at City Council
- April 14, 2014 - First Reading at City Council
- March 24, 2014 - Considered at the Legislative, Finance, and Administration Committee