AN ORDINANCE ESTABLISHING A FREEDOM OF INFORMATION LAW COMPLIANCE POLICY FOR THE CITY OF MOUNT VERNON, NEW YORK

WHEREAS, the City of Mount Vernon acknowledges that the public has a right to know how its government operates and that this right is essential to establishing the public's trust.

WHEREAS, the New York State Freedom of Information Law (Public Officers Law, Article 6, §84, also known as the Freedom of Information Law (FOIL)) mandates that all government records shall be available for public inspection and copying, subject to certain limited exceptions, to promote transparency, accountability, and trust in government

WHEREAS, the City of Mount Vernon is responsible for ensuring timely, fair, and consistent access to public records, to designate a records access officer, to establish procedures for responding to requests, and to provide for administrative review of denials in accordance with New York State Law; and

WHEREAS, the City seeks to affirm its commitment to open government by adopting local procedures that comply with and implement the requirements of the New York State Freedom of Information Law;

The City of Mount Vernon, in City Council convened, does hereby ordain, and enact:

Section 1. Title. This ordinance shall be known as the "Freedom of Information Compliance Policy for the City of Mount Vernon, New York" ordinance.

Section 2. Adoption of the Freedom of Information Law Compliance Policy. The City Council hereby adopts the Freedom of Information Law Compliance Policy, as indicated below:

"FREEDOM OF INFORMATION COMPLIANCE POLICY FOR THE CITY OF MOUNT VERNON, NEW YORK"

§1. Statement of Policy and Purpose. The purpose of this policy is to establish local procedures to ensure compliance with the New York State Freedom of Information Law (Public Officers Law, Article 6) and to guarantee the public's right to access government records to the fullest extent allowable by law.

§2. Definition of Record. "Record" means any information kept, held, filed, produced or reproduced by, with, or for this agency, in any physical form whatsoever, including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or disks, rules, regulations or codes.

§3. Designation of Records Access Officers. The City of Mount Vernon is responsible for ensuring compliance with the FOIL and designates the following positions as the Records Access Officer and the Appeal Officer, respectively:

FOIL OFFICER – Records Access Officer
City Hall, Law Department, Room 111
Mount Vernon, New York 10552
914-665-2366
Foilnylaw@cmvny.gov

The Records Access Officer is responsible for ensuring an appropriate and timely agency response to public requests for access to records.

APPEAL OFFICER – Corporation Counsel
City Hall, Law Department, Room 111
Mount Vernon, New York 10552
914-665-2366
Foilnylaw@cmvny.gov

The Appeal Officer is responsible for responding only to denied or constructively denied FOIL requests after receiving a denial to a FOIL or a lack of a response from the FOIL Officer.

Inspection of Records Location. City Records may be found and inspected in their respective departments upon request to the extent available.

Each department is responsible for maintaining its own records and creating and updating an annual list of available records, which will be posted on the City's website.

Hours for Public Inspection. Requests for public access to records shall be accepted, and records may be produced during the hours the City is regularly open for business.

These hours are: 8:30 a.m.- 4:30 p.m.

Requests for Public Access to Records. Requests for records should be made in writing, either in person in the Law Department, Room 111, or on the cmvny.com website under FOIL Requests. The City will acknowledge the request within five (5) business days of receiving it. The time required to complete a request will vary depending on several factors, including the number of records requested and the difficulty in locating and reviewing the documents. The Requestor will be notified of the timeframe within which the agency needs to complete the request.

The acknowledgment will inform the person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described; verify the receipt of a request in writing; and provide an approximate date when the request will be fulfilled.

The response to the request shall not be more than twenty (20) business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty (20) business days from the date of such acknowledgment, the City will provide a statement in writing indicating the reason for the inability to grant the request that time and date specific, within a reasonable period under the circumstances of the request, when the request will be given in whole or in part.

If the receipt of the request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do so and a date specific, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.

Failure to comply with the time limitations described herein shall constitute a constructive denial of a request that may be appealed.

Denial of access to records shall be made in writing, stating the specific reason and advising the requester of the right to appeal to the individual established to determine appeals, who shall be identified by name, title, business address, and business phone number. If requested records are not provided promptly, such failure shall also be deemed a denial of access.

Any person denied access to records may appeal within thirty (30) days of a denial. The time for deciding an appeal by the individual or body designated to determine appeals shall commence upon receipt of a written appeal identifying:

(1) the date and location of requests for records;

(2) a description, to the extent possible, of the records that were denied; and

(3) the name and return address of the person denied access.

Failure to determine an appeal within ten (10) business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal. The person or body designated to determine appeals shall transmit copies of all appeals to the Committee on Open Government upon receipt of appeals by email. The person or body designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination in writing within ten (10) business days of receipt of an appeal.

Submitting a FOIL request or inspecting records in a city's offices is free. However, an agency may charge the Requestor for reproducing the records you requested. FOIL limits the amount that can be charged. The Requestor may always include a specific statement limiting the amount you are willing to pay in your request letter. If an agency estimates that the total cost will exceed that amount, you may narrow your request to reduce the cost.

The fee for reproducing a record may include the actual cost of the storage device or media, the exact cost for engaging outside professional service to produce the record, and the hourly salary for employee time used in reproducing the record.

There shall be *no* fee charge for:

(1) inspection of records;
(2) search for records unless the search takes more than 2.0 hours.
(3) Copies of less than 25 pages may be provided without a fee; however, copies of more than 25 pages will be charged .25 cents per page.

If a records request takes more than 2 hours to search and produce, the City may charge a fee for delivering such a request. Such a fee shall be based upon the following:

(i) An amount equal to the hourly salary attributed to the lowest-paid agency employee who has the necessary skill required to prepare a copy of the requested record;
(ii) the actual cost of the storage devices or media provided to the person requesting to comply with such request;
(iii) The actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy, and
(iv) preparing a copy shall not include search time or administrative costs. No fee shall be charged unless at least two hours of agency employee time are needed to prepare a copy of the requested record. A person requesting a record shall be informed of the estimated cost of preparing a copy if more than two hours of an agency employee's time is needed or if an outside professional service would be retained to prepare a copy of the record.

Fees. Should you desire copies of records, fees shall apply in accordance with §87(1) of the NYS Public Officers Law. An advanced payment is required before records are released. Please make checks or money orders payable to the City of Mount Vernon.

Fees for Photocopies: Pages up to 9 inches by 14 inches are $ 0.25 each, plus the actual cost of reproducing any other record.

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(1) inspection of records;
(2) search for records unless the search takes more than 2.0 hours.
(3) Copies of less than 25 pages may be provided without a fee; however, copies of more than 25 pages will be charged .25 cents per page.

In the event a records request takes more than 2.0 hours to search and produce, the City of Mount Vernon may charge a fee for delivering such a request. Such a fee shall be based upon the following:

(i) An amount equal to the hourly salary attributed to the lowest-paid agency employee who has the necessary skill required to prepare a copy of the requested record;

(ii) the actual cost of the storage devices or media provided to the person requesting to comply with such request;

(iii) The actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy, and

(iv) Preparing a copy shall not include search time or administrative costs. No fee shall be charged unless at least two hours of agency employee time are needed to prepare a copy of the requested record. A person requesting a record shall be informed of the estimated cost of preparing a copy if more than two hours of an agency employee's time is needed or if an outside professional service would be retained to prepare a copy of the record.

Section 3. Effective Date. This Ordinance shall take effect immediately upon approval and adoption by the City Council and following applicable laws of the State of New York.