

1
2 Bill No. G-16-09-27

3 GENERAL ORDINANCE NO. _____

4 AN ORDINANCE AMENDING CHAPTER 38 OF
5 THE CITY OF FORT WAYNE CODE OF ORDINANCES
6 ADDING §38.07 PUBLIC RECORDS; CONFIDENTIALITY OF
7 INFORMATION AND
8 ADDING §38.08 USE OF PUBLIC RECORDS.

9
10 WHEREAS, the City of Fort Wayne ("City") receives public records
11 requests pursuant to Indiana's Access to Public Records Act, IC § 5-14-3.

12 WHEREAS, some of the public records requested contain trade
13 secrets, defined by IC §24-2-3-2 as "information, including a formula, pattern,
14 compilation, program, device, method, technique, or process, that: (1)
15 derives independent economic value, actual or potential, from not being
16 generally known to, and not being readily ascertainable by proper means by,
17 other persons who can obtain economic value from its disclosure or use; and
18 (2) is the subject of efforts that are reasonable under the circumstances to
19 maintain its secrecy".

20 WHEREAS, trade secrets must be withheld as confidential, pursuant
21 to Indiana Code §5-14-3 and §24-2-3.

22
23 WHEREAS, City strives for transparency but must also abide by
24 nondisclosure requirements of trade secrets pursuant to Indiana Code.

25 WHEREAS, the Indiana General Assembly has determined that it is
26 good public policy to exempt public records from being used for the
27

1 involuntary solicitation, advertisement, or sale of merchandise, goods or
2 services from and to City's residents and businesses.

3
4 **WHEREAS**, the City strives to balance the public interest in
5 transparent government with the need to protect residents' and businesses'
6 privacy.

7
8 **WHEREAS**, certain requesters request information pertaining to
9 residents and businesses within the City in order to sell, advertise and/or
10 solicit the purchase of merchandise, goods, or services.

11 **WHEREAS**, City residents and businesses have informed City staff
12 that they do not want their information to be disclosed for the purpose of
13 being contacted regarding the sale, advertisement or solicitation of goods
14 and services.

15 **WHEREAS**, the Common Council of the City of Fort Wayne now finds
16 it is in the best interest of the residents and businesses of the City to prohibit
17 an individual, corporation, limited liability company, partnership or
18 unincorporated association who receives public information from using the
19 information received for purposes of selling, advertising, or soliciting the
20 purchase of merchandise, goods, or services or to sell, loan, give away, or
21 otherwise deliver the information for these purposes, pursuant to IC §5-14-3-
22 3(d).

23 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
24 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

25
26 **SECTION 1.** The following Sections of Chapter 38 be added as
27 follows:

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30

4
5
6
7
8
9
10
11
12
13
14
15

16

17
18
19
20
21
22
23
24
25
26
27
28
29
30

1 provision may be prohibited from obtaining a copy or any further data under
2 IC §5-14-3-3(d).

3 **SECTION 2.** Except for the foregoing amendments, the remaining
4 sections of Chapter 38 of the City of Fort Wayne, Indiana, Code of
5 Ordinances shall remain in full force and effect.

6 **SECTION 3.** This Ordinance shall be in full force and effect from and
7 after its passage and any and all necessary approval by the Mayor.
8

9
10 _____
Council Member

11 Approved as to form and legality
12

13
14 _____
Carol Helton, City Attorney
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Interoffice Memo

Date: September 22, 2016

To: Common Council Members

From: Lindsey M. Jackson – Associate City Attorney

RE: Amendment to Chapter 38 of the Code of Ordinances, Public Records Requests

Council Introduction Date: September 27, 2016

Background & Supporting Information:

City departments receive hundreds of public records requests each year. Some requests are for documents containing trade secrets. Trade secrets are prohibited by law to be disseminated through a public records request response, but City has received some pushback from requesters who want the information. This Ordinance states clearly to all requesters that trade secret information will be kept confidential and also puts requesters on notice that all requests should be made to the City Law Department.

Some requests are from out of state companies requesting resident and business information so that they can solicit, advertise and/or sell goods and services to Fort Wayne residents, businesses and customers. City staff have received feedback from these residents, businesses and customers who have stated they do not want their information, most which they deem private, given to these companies and do not want to be solicited for goods and services just because they are a resident, business or customer of Fort Wayne.

Funding Source: No funding required.