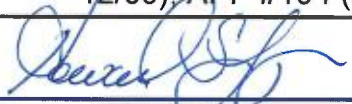




## Administrative Policies and Procedures

Policy Title: <b>FOIA Procedures and Guidelines</b>	Policy Number: 104
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## **1.0 Purpose**

To provide procedures and guidelines to implement the Michigan Freedom of Information Act (MCL 15.231 et seq.).

## **2.0 Policy**

It is the policy of the City of Ann Arbor that public records of the City be provided when requested consistent with the Michigan Freedom of Information Act ("FOIA"), the City Charter, this policy, and other applicable law.

## **3.0 FOIA Coordinators – Designation and Authority**

- 3.1 The City Administrator designates the Chief of Police as the FOIA Coordinator for Police records.
- 3.2 The City Administrator designates the City Clerk as the FOIA Coordinator for all other City records.
- 3.3 The City Clerk and Chief of Police may, in turn, designate persons under their respective supervision to perform the duties of FOIA Coordinator.
- 3.4 Each FOIA Coordinator shall have the authority to implement procedures to administer the FOIA process, consistent with these procedures and guidelines, the FOIA, and other applicable City policies and law.

## **4.0 FOIA Coordinator Responsibilities**

Each FOIA Coordinator shall:

- (1) Perform duties consistent with the FOIA and this policy, including accepting and processing requests and approving grants and denials;
- (2) Accept FOIA requests, gather responsive public records, review or perform the separation or deletion of exempt information from nonexempt information, calculate fees, and transmit responses;
- (3) Process and collect information for FOIA appeals as necessary to provide the City Administrator with sufficient information to decide the appeal;
- (4) Retain records of FOIA requests and appeals;
- (5) Consult with the City Attorney's Office and any applicable Service Area as necessary to ensure compliance with the FOIA.

## **5.0 Service Area Responsibilities**

Failure to respond promptly and properly to a FOIA request may subject the City to Court action and monetary damages. Each Service Area shall ensure that its employees:

- (1) Immediately forward any written request for public records or appeal of a FOIA response to the FOIA Coordinator via email, hand-delivery, or other immediate delivery method;
- (2) Promptly respond to internal requests regarding FOIA;
- (3) Provide the FOIA Coordinator initial estimates of time and costs required to search for, examine, and copy the requested public records in the manner requested by the FOIA Coordinator and, upon completion, an account of actual time spent and costs incurred;
- (4) Inform the FOIA Coordinator if the employee believes any of the requested records are available on the City's public internet sites and identify the specific internet address of the records. The employee need not provide those records to the FOIA Coordinator unless subsequently requested;
- (5) Search for and retrieve public records as necessary to respond to a FOIA request. The FOIA does not require the City to answer questions, to make a compilation, summary, or report of information, or to create a new public record to respond to a request. However, the City must produce existing City public records, including those residing in a computer database, upon request;
- (6) Advise the FOIA Coordinator of appropriate redactions, exemptions, and omissions;
- (7) Consult with the City Attorney's office and any applicable Service Area as necessary to ensure compliance with the FOIA;
- (8) Accommodate or assist a person with a disability who requests public records, but is unable to make a written request. Questions concerning equipment and service accommodations should be directed to the City Clerk;
- (9) If a verbal, non-written request is received for information that the employee believes is publicly available on a City's internet site, where practicable and to the best of the employee's knowledge, inform the requester of the internet address.

## **6.0 Manner of Requesting Public Records**

- 6.1 A person requesting to obtain a copy of or inspect a City public record must do so in writing. The request must describe the public record sufficiently to enable the City to find the public record. If the request is made by a person, other than an individual who qualifies as indigent under section 4(2)(A) of the FOIA, the request must include the requesting person's complete name, address, and contact information. If the request is made by a person other than an individual, the request must include the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with the United States Postal Service addressing standards. If the request is made by a person who qualifies as indigent under section 4(2)(A) of the FOIA, the request must include the name and the mailing address of the requester or other information sufficient to contact the requester and transmit a response.
- 6.2 If a request is too vague to identify or find the public record, the FOIA Coordinator shall contact the requester for clarification. A clarification or amendment of a request must be in writing and shall be considered a new request subject to the full time permitted for response under the FOIA.
- 6.3 The requester may stipulate that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided unless the City lacks the technological capability to do so. For security of the City's information technology systems, a requester is not permitted to provide their own media.
- 6.4 A person has the right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis (for example, board minutes, or agendas). Subscription requests are valid for up to six months at the request of the subscriber and can be renewed. A subscription fee schedule shall be generated as necessary by the FOIA Coordinator, taking into account the medium, volume, and frequency of issuance.
- 6.5 A written request made by facsimile, electronic mail, or other electronic transmission is not deemed received until 1 business day after the electronic transmission is made. If a written request is sent by electronic mail and delivered to a spam or junk-mail folder of the City, the request is not deemed received until 1 day after the City first becomes aware of the written request. The FOIA Coordinator shall note both the date and time a written request is delivered to the spam or junk-mail folder and the date and time the City first becomes aware of that request.

6.6 An individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility is not entitled to make a request under the FOIA.

## **7.0 Oral Requests for Public Records**

7.1 Generally, an oral request does not constitute a valid request for public records under the FOIA and the person attempting to make an oral FOIA request should be directed to make the request in writing. The exceptions to this are:

- (1) If a person is disabled and unable to make a written request;
- (2) The request is for records publicly available on a City internet site;
- (3) The request is for generally distributed public records.

7.2 If a person making an oral FOIA request is disabled, either temporarily or permanently, and unable to make the request in writing, the FOIA Coordinator or City employee contacted by the requester must make an appropriate accommodation under the Americans with Disabilities Act (for example, writing out the request for the person may be an appropriate accommodation). If a City employee is unable or unsure how to make an appropriate accommodation, the employee should immediately contact the FOIA Coordinator. Questions concerning equipment and service accommodations should be directed to the City Clerk's Office.

7.3 If a verbal, non-written request is received for information that an employee believes is publicly available on a City internet site, the employee shall, where practicable and to the best of the employee's knowledge, inform the requester of the internet address.

7.4 Generally distributed public records include brochures, questionnaires, activity application forms, voter registration forms, public meeting agendas, and similar public records that are printed and distributed without charge as a matter of course. Requests for such records, if in writing as required by FOIA, must be treated as FOIA requests and responded to within FOIA deadlines; however, requests for reasonable quantities of such records may be responded to without charge in the normal course of business.

## **8.0 Processing Requests for Copies of Public Records**

8.1 The FOIA Coordinator shall identify the Service Area or employee(s) that have the requested records, notify them of the due date for response, and request an estimate of the time and cost to search for, examine, and copy the records for

the lowest-paid employee(s) capable of doing so in accordance with the fee components listed in this policy.

- 8.2 The FOIA Coordinator shall calculate the estimated cost of responding to the request based on the estimates received from the employee(s) and shall determine whether a deposit will be required. This determination must be made within 5 days of receipt of the request.
- 8.3 If the FOIA Coordinator knows or has reason to know that all or a portion of the requested records are publicly available on a City internet site, the FOIA Coordinator need not collect the records, but must, to the extent practicable, identify the specific internet address of the records and provide it to the requester in the response. The FOIA Coordinator shall also inform the requester of the additional charge to obtain copies.
- 8.4 Upon receiving the requested records, the FOIA Coordinator shall review any recommended redactions or omissions, make any redactions or omissions appropriate under the FOIA, and request the assistance of the City Attorney's Office as necessary to ensure compliance with applicable law.
- 8.5 When the requested records are ready for release, the FOIA Coordinator shall calculate the final costs and prepare and transmit a response to the requester as provided in this policy that shall identify costs in the form prescribed by the FOIA, redactions or omissions along with the applicable exemptions, the internet address of any publicly available internet records, and a description of the requester's rights of appeal.

## **9.0 Processing Requests for Inspection of Public Records**

- 9.1 The FOIA Coordinator shall identify the Service Area or employee(s) that have the requested records, notify them of the due date for response, and request an estimate of the time and cost of the lowest-paid employee(s) capable of finding and preparing the records for inspection.
- 9.2 The FOIA Coordinator shall calculate the estimated cost of responding to the request based on the estimates received from the employee(s) and shall determine whether a deposit will be required. This determination must be made within 5 days of receipt of the request.
- 9.3 If the FOIA Coordinator knows or has reason to know that all or a portion of the requested records are publicly available on a City internet site, the FOIA Coordinator need not collect the records, but must, to the extent practicable, identify the specific internet address of the records and provide it to the requester in the response. The FOIA Coordinator shall also inform the requester of the additional charge to inspect the records and obtain copies.

- 9.4 The FOIA Coordinator shall review any redactions, omissions, and exemptions and request the assistance of the City Attorney's Office as necessary to ensure compliance with applicable law.
- 9.5 Once the requested records are ready for inspection, the FOIA Coordinator shall prepare and transmit to the requester a response as provided in this policy that includes the rules for inspection of public records, the estimated cost per hour that will be charged for the inspection, notice of the right to have copies made of any public record being inspected, the estimated cost of such copies, and a bill of costs incurred to date. The response shall identify costs in the form prescribed by the FOIA, redactions or omissions along with the applicable exemptions, the internet address of any publicly available internet records, and a description of the requester's rights of appeal. The response shall contain an acknowledgement provision, which shall state that the requester has read the response, understands the rules for inspection and agrees to them, including the payment of all inspection fees. The requester must sign the acknowledgement and provide it to the FOIA Coordinator prior to inspection. The requester is entitled to a copy of the response.
- 9.6 Upon receipt of the signed acknowledgment and payment of the costs incurred to date, the FOIA Coordinator shall arrange reasonable facilities and schedule a time for the requester to inspect the records and make notes from the records. If a person has been granted access to a public record, the FOIA Coordinator or designee shall be present at all times to ensure that the City's public records are protected from loss, unauthorized alteration, mutilation, or destruction, and that nothing is removed from or added to City files. No public record shall be removed from the inspection facility without the prior approval of the FOIA Coordinator or designee.
- 9.7 At the completion of the requester's inspection, the FOIA Coordinator or designee shall calculate the costs incurred and the requester shall be required to present payment in the stated amount.

## **10.0 Retention of FOIA Requests and Appeals**

- 10.1 The FOIA Coordinator shall maintain a chronological file of all FOIA requests for one year plus one day after the date the request has been completed by the City, including a copy of all responses, originals or copies of all public records produced, both with and without redactions, and copies or originals of omitted records that are responsive to the request (omitted records may be maintained in the applicable service area, as appropriate). If the request is for inspection of public records, the FOIA Coordinator shall also retain documentation of the date

of inspection. The FOIA Coordinator may retain the originals or copies of public records electronically.

- 10.2 If the requester fails to pay the final costs due or fails to pick up the copies within one year, the request shall be deemed abandoned, any amounts paid by the requester shall be forfeited to the City, and the originals or copies of public records may be recycled, destroyed, or returned to the processing service area, as appropriate.
- 10.3 If an action is commenced regarding the City's response to a FOIA request, including a lawsuit or administrative appeal, the FOIA Coordinator shall retain the relevant records until the City Attorney's Office informs the FOIA Coordinator that the records no longer need to be retained.
- 10.4 For appeals, the FOIA Coordinator shall retain a copy of the appeal request and written decision along with all responses, originals or copies of all public records produced, both with and without redactions, and copies or originals of omitted records that are responsive to the request (omitted records may be maintained in the applicable service area, as appropriate) for one year plus one day from the date of the written appeal decision. If an action is commenced regarding the City's response to an appeal, including a lawsuit or further administrative appeal, the FOIA Coordinator shall retain the relevant records until the City Attorney's Office informs the FOIA Coordinator that the records no longer need to be retained.

## **11.0 Handling Specific Types of Record Requests**

Requests for certain types of public records may require special handling or redactions. This section contains some examples. If a City employee has questions about these types of records, they should contact the City Attorney's Office for advice.

### **11.1 Copyrighted Public Records**

Generally, copyrighted public records may not be duplicated in response to a FOIA request if there is notice that the records have been copyrighted. There is notice if the word "copyright" (or symbol ©), the date of copyright, and the name of the copyright owner appear on the public record. If the copyright is owned by the City and the City allows distribution of the copyrighted material, then the records may be copied and released, but the copyright identification must be visible on the copy. If a FOIA request is for copyrighted public records and the copyright is not owned by the City, the FOIA Coordinator should consult with the City Attorney's Office.

A requester may inspect a copyrighted public record in person under the FOIA. If the City receives a request for a copy of copyrighted materials when the City is



not the owner of the copyright, the FOIA Coordinator should inform the requester that the record may not be copied, but may be inspected.

#### 11.2 Trade Secrets/Confidential Financial Public Records Submitted to the City

Information or public records submitted to obtain a contract, license, or some other benefit from the City generally are not exempt from disclosure under the FOIA. A City employee that has a question about whether a public record falls under this exemption should contact the City Attorney's Office for advice.

#### 11.3 Public Records Governed by Other Statutes

Some public record requests are governed by other statutes that may require specific redactions or processing. For example, public records that disclose the social security number of an individual, a public body's security measures, or conservation plans approved in connection with certain easements require redactions.

#### 11.4 Personnel File/Employee Information

Employees may obtain access to their own personnel files under the Bullard-Plawecki Employee Right to Know Act. The law also imposes other response requirements upon the City, including protecting certain kinds of public records that might be found within personnel files. Requests for personnel files or other employee information should be referred directly to Human Resources.

If personnel file/employee information requests are made in the course of a grievance or other labor arbitration or administrative proceeding, the request may have to be responded to in accordance with the rules and procedures for that proceeding, but may also be subject to disclosure under the FOIA. These requests should be referred to the City Attorney's Office.

#### 11.5 Creation of Public Records/Reports

The FOIA does not generally require the City to create public records, including reports, in response to FOIA requests. However, the City must, to the extent possible, provide requested records in their original format if requested.

#### 11.6 Subpoenas

A subpoena is a court order mandating that an individual provide documents or appear for deposition or in court. A City employee who receives a subpoena must immediately deliver it to the City Attorney's Office for review.

#### 11.7 Internet Records

The FOIA provides that public records that are publicly available on the City's internet sites are exempt from charges unless, after being informed that the records are on the internet, the requester specifically requests that the City provide copies. To meet FOIA requirements, a City employee asked to provide public records in response to a FOIA request must inform the FOIA Coordinator if they believe that any requested records are publicly available on a City internet site and provide the specific internet address of those records, if known.

## **12.0 Requests Requiring Significant Staff Time to Complete**

If a FOIA Coordinator receives a request that will require significant staff time to complete, the FOIA Coordinator may communicate with the requester to explain the breadth and cost of the request and ask if the requester would like to narrow the request or break the request into parts. The FOIA Coordinator must obtain a written modification from the requester for any revision to the request. If the requester does not wish to narrow the request and the FOIA Coordinator has reason to believe that the City will have difficulty responding to the request within the time period set forth in the FOIA, the FOIA Coordinator should inform the requester of the estimated time it will take and the reason, and seek the requester's written agreement to a timetable for delivery of the response and to pay the applicable costs.

## **13.0 Deposits**

13.1 The City may require a deposit prior to processing a FOIA request if the estimated fees exceed \$50.00. To preserve public resources, the City generally requires a deposit when permitted under the FOIA. The FOIA Coordinator should determine as soon as possible whether a request requires a deposit. The notice requiring a deposit must be included in the City's initial response or in the notice of a 10-day extension.

13.2 When a deposit is required, the FOIA Coordinator shall send a deposit letter containing:

- (1) the total estimated fee in the standard form for detailed itemization of costs;
- (2) that ½ the total estimated fee is required as deposit;
- (3) that the request will not be processed until the deposit is received;
- (4) that the balance of actual final fee must be paid after processing before the public records will be released;
- (5) that the actual final fee may be greater or less than the estimate;

- (6) a best efforts estimate regarding the time the records will be provided.
  - (7) notice of the date by which the deposit must be received if the requester does not want the City to consider the request abandoned. Such a date must be 48 days after the notice is sent.
- 13.3 The period of time to respond to the request is tolled from the date the deposit notice is sent until the deposit is paid.
- 13.4 If the City receives a request from an individual who has not paid for copies of public records collected for a prior request, the FOIA Coordinator shall require a deposit of 100% of the estimated total fee before the new request is processed, if all of the following conditions exist:
- (1) the final fee for the prior request was not more than 105% of the estimated fee;
  - (2) the public records made available contained the information sought and remain in the City's possession;
  - (3) the public records were made available within the estimate time frame;
  - (4) 90 days have passed since the City notified the individual in writing that the public records were ready;
  - (5) the individual is unable to show proof of payment for that prior request; and
  - (6) the City has calculated an estimated detailed itemization for the new request's fee deposit.
- 13.5 The FOIA Coordinator shall not require the 100% estimated fee deposit if any of the following applies:
- (1) the individual is able to show proof of full payment for the prior request;
  - (2) the individual pays in full the amount due for the prior request; or
  - (3) 365 days have passed since the individual made the request that was not paid for.
- 13.6 If the City requires a deposit and the deposit is not received by the City with 45 days from the receipt by the requestor of the notice that a deposit is required, and if the requester has not filed an appeal of the deposit, the request shall be

deemed abandoned and the City is not required to fulfill the request. A notice of a deposit requirement is considered received 3 days after it is sent, regardless of the means of transmission.

- 13.7 When the City has received a deposit, the request is processed, and the requester does not pay all remaining costs within one year from the date of notification that the public records are available, the request shall be deemed abandoned and the deposit forfeited.

#### **14.0 Responses**

- 14.1 Unless otherwise agreed to in writing by the requester, the FOIA Coordinator shall provide a written response to all requests within 5 business days after the request is received doing 1 of the following:

- (1) Granting the request.
- (2) Denying the request.
- (3) Granting the request in part and denying the request in part.
- (4) Issuing a notice extending the time to respond for not more than 10 business days, which must specify the reasons for the extension and the date by which the City will respond.

- 14.2 The final determination of the City must either grant or deny the request, in whole or in part, and contain the following:

- (1) A statement specifying the request has been “granted,” “denied,” or “granted in part and denied in part.”
- (2) If denied, a description of the public records or portions of public records exempted from disclosure (without revealing the contents of the exempt information) and an explanation of the basis for the exemptions.
- (3) A certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the City, if that is the reason for denying the request or a portion of the request.
- (4) If there is a charge, a standard form containing a detailed itemization of costs, how to make payment, and how the records will be delivered. The itemization shall contain the following statement specifying how to appeal a fee:

*If you believe that you have been charged a fee in excess of that permitted by the FOIA or the City's FOIA Procedures and Guidelines, you must submit to the City Administrator, within 45 days of the date of this response, a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the City's Procedures and Guidelines or section 4 of the FOIA. Within 45 days after the appeal determination, you may commence a civil action in Washtenaw County Circuit Court for a fee reduction.*

- (5) A link to the City internet address of these procedures and guidelines the written public summary required under the FOIA or, if those documents are not on a City internet site, copies of those documents.
- (6) The City internet address of any publicly available internet records, and a statement that there will be an additional charge if the requester wishes the City to create copies.
- (7) If any portion of the request is denied, the following statement specifying the requester's right to appeal:

*If you receive written notice that all or a portion of your request has been denied, then under Sec. 10 of the Freedom of Information Act (FOIA) and Sec. 16 of the City's FOIA Procedures and Guidelines you may, at your option, either 1) submit to the City Administrator, within 180 days of the date of this response, a written appeal that specifically states the word "appeal" and identifies the reason(s) for reversal of the denial; or 2) commence a civil action in the Washtenaw County Circuit Court to compel the City's disclosure of the record. If, after judicial review, the circuit court determines that the City has not complied with the Act and orders disclosure of all or a portion of a public record, you may be awarded reasonable attorney's fees and damages as specified under the FOIA.*

- (8) The signature of the FOIA Coordinator or their designee.

## **15.0 Appeals**

### 15.1 Head of the Public Body

The City Administrator or, if the City Administrator is unavailable, their designee, shall be the head of the public body for all appeals.

### 15.2 Appeal of Denial

If the City makes a final determination to deny any part of a request, the requester may appeal the decision to the City Administrator within 180 days after the date the final determination is sent.

### 15.3 Appeal of Fees

If the City makes a final determination to require a fee, the requester may submit an appeal for a fee reduction to City Administrator within 45 days after notice of the required fee is sent.

### 15.4 Validity of Appeal

The FOIA provides that in order to be a valid appeal, the appeal must be in writing, addressed to the City Administrator, and specifically state the word "appeal" and identify the reason or reasons for reversal of the denial or, for a fee appeal, how the fee exceeds the fee permitted by the FOIA and this policy.

### 15.5 Appeal Procedure

- (1) Upon receipt of a valid appeal, the FOIA Coordinator shall provide the City Administrator and the City Attorney's Office with a copy of the appeal, the due date, and the necessary information to make a decision on the appeal.
- (2) A written decision on an appeal must be issued to the requester within 10 business days after receiving the appeal, unless an extension is issued.
- (3) On the direction of the City Administrator, the FOIA Coordinator shall prepare a draft written decision for the City Administrator's review or transmit the final written decision after the City Administrator's approval.

### 15.6 Written Decision

The written decision on an appeal shall contain the following:

- (1) For an appeal of a denial, the written decision shall (a) reverse the disclosure denial, (b) uphold the disclosure denial, or (c) reverse the disclosure denial in part and uphold the disclosure denial in part.
- (2) For a fee appeal, the written decision shall (a) waive the fee, (b) reduce the fee, indicate the specific basis under section 4 of the FOIA that supports the remaining fee, and include a certification from the City Administrator that the statements therein are accurate and that the reduced fee amount complies with the City's publicly available procedures and guidelines and section 4 of the FOIA, (c) uphold the fee, indicate the

specific basis under section 4 of the FOIA that supports the fee, and include a certification from the City Administrator that the statements therein are accurate and that the fee amount complies with the City's publicly available procedures and guidelines and section 4 of the FOIA.

- (3) If the result is a reversal of a denial in whole or in part, the written decision shall include a statement specifying any additional costs for provision of the public records, including a detailed itemization of costs on the standard form.
- (4) The signature of the City Administrator or designee.

### 15.7 Extension of Appeals

The time for responding to an appeal of a denial may, under unusual circumstances, be extended for up to 10 business days. "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

- (1) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.
- (2) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

The time for responding to an appeal of a fee may be extended for up to 10 business days for a detailed reason explaining why the extension is necessary.

If an extension of an appeal for either a fee or a denial is warranted, the FOIA Coordinator or City Administrator shall advise the City Attorney's Office as soon as possible of the reasons.

## 16.0 Fee Calculation

### 16.1 Standard Form for Detailed Itemization of Fees

The FOIA Coordinator shall use a standard form for detailed itemization of fees that clearly lists and explains the allowable charges for each of the 6 fee components that compose the total fee used for estimating or charging purposes.

### 16.2 Fee Components

Based on the volume and complexity of requests that the City of Ann Arbor receives, the expense of training staff to perform certain FOIA-related tasks, and to preserve public resources and recover costs, the City shall charge a fee composed of the following:

- (1) That portion of labor costs directly associated with the necessary searching for, locating, and examining of public records. These labor costs shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. These costs will only be included if they are unreasonably high as defined in these policies and guidelines.
- (2) That portion of labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information. These labor costs shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. These costs will only be included if they are unreasonably high as defined in these policies and guidelines.
- (3) For public records provided to the requester on nonpaper physical media, the actual and most reasonably economical cost of the computer discs, computer tapes, or other digital or similar media.
- (4) For paper copies of public records provided to the requester, the actual cost of necessary duplication or publication, not including labor. The City shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost-saving and available.
- (5) The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requester on nonpaper physical media or through the internet or other electronic means as stipulated by the requester. For City employees, these labor costs shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. For duplication or publication that must be done, or is more economically done, off-site, the City shall charge the requester the actual costs charged to the City for the work.
- (6) The actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner, including costs to ship public records off-site to be copied, if necessary or more economical. The City shall not charge more for expedited shipping or insurance unless specifically stipulated by the requester, but may otherwise charge for the least expensive form of postal delivery confirmation when mailing public



records. Postage costs will be waived for up to 8 pages (including the City's written response) that fit into a business envelope.

### 16.3 Charges for Search, Examination, Review, Deletion and Separation

The City shall charge a fee for labor costs for the search, examination, review, and the deletion and separation of exempt from nonexempt information in responding to FOIA requests when failure to do so would result in unreasonably high costs incurred. Unreasonably high costs means a request that entails any one or a combination of the following:

- (1) Any staff time over 1 hour;
- (2) Any staff time spent by the IT department performing a search for or retrieval of electronic public records;
- (3) Any staff time spent separating or deleting exempt information from nonexempt information from video recordings, including necessary review

### 16.4 Labor Costs

When charging for City staff labor, the City shall charge the hourly wage, plus a multiplier reflecting the actual costs of fringe benefits, of its lowest-paid employee capable of performing the labor. Regardless of actual costs, the multiplier shall not exceed 50% of the hourly wage unless the FOIA specifically permits otherwise. Labor fee components shall be itemized in a manner that expresses both the hourly wage and the number of hours charged. The percentage multiplier used to account for benefits in the detailed itemization shall be clearly noted. Overtime wages shall not be included unless specifically stipulated by the requester and clearly noted on the detailed itemization.

If the requester is informed that public records are available on a City internet site and the requester still would like the City to copy those records, the costs of labor and materials for duplication and publication shall be added to the fee for the request. The fringe benefit multiplier for these costs is permitted to exceed 50% of the hourly wage, reflecting actual costs. Note that labor costs for duplication and publication are not subject to the free hour for search, examination, review, and redaction.

### 16.5 Inspection Costs

Inspection and examination of public records must be conducted in the presence of a City employee under conditions, which protect the public records and prevent excessive and unreasonable interference with the discharge of municipal functions. The fees set forth in this policy and permitted under the FOIA for

copying, publication, search, examination, review, and the deletion and separation of exempt from nonexempt information may be charged for preparing a public record for inspection. Additional fees may be charged for the presence of staff during any inspection.

#### 16.6 Payment of Costs

Copies of public records shall not be released until the City has received payment of all fees. Where inspection of public records has been requested, the inspection shall not be permitted until the City has received payment for costs incurred in searching for and preparing the public records for inspection. Costs for staff time in monitoring an inspection shall be computed and charged after the inspection is complete.

#### 16.7 Combination of Requests

When a requester or associated group of requesters submits two or more simultaneous, proximate, or overlapping requests, the City may, in the interest of efficiently using and conserving City staff and resources, combine its responses to such requests for the purpose of calculating fees. Requests submitted on the same day by the same person or group will generally be combined.

#### 16.8 Requests Less than \$1.00

In the interest of cost effectiveness, FOIA requests that cost \$1.00 or less to process will be provided at no charge.

#### 16.9 Costs Set By Law

The FOIA provides that the cost calculations described in this policy do not apply to public records prepared under an act or statute specifically authorizing the sale of those records to the public or for which a specific fee is authorized under Michigan or federal law. Such records shall be sold at the cost provided for by law.

#### 16.10 Disability

The City shall not charge a disabled individual additional costs to provide special accommodations required by the Americans With Disabilities Act.

#### 16.11 Public Assistance/Indigence

The City shall provide a copy of a public record without charge for the first \$20.00 of the fee for each request by either of the following:

- (1) Persons receiving public assistance or presenting facts showing an inability to pay due to indigency. The person must complete and submit an affidavit, the form of which may be provided by the City Clerk. The person may be required to submit a copy of relevant documents showing receipt of public assistance (such as a copy of a Medicaid card) or otherwise substantiating a claim of indigency. In the response, the FOIA Coordinator shall fully note the discount on the detailed cost itemization or, if the requester is ineligible for the discount, inform the requester specifically of the reason for ineligibility. An individual is ineligible for this fee reduction if any of the following apply:
  - (i) The individual has previously received discounted copies of public records under this subsection from the City twice during that calendar year.
  - (ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request.
- (2) A nonprofit organization formally designated by the state to carry out activities under subtitle C of the developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors, if the request meets all of the following requirements:
  - (i) Is made directly on behalf of the organization or its clients.
  - (ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.
  - (iii) Is accompanied by documentation of its designation by the state.

#### 16.12 Late Responses

If the City does not respond to a request in a timely manner as required under the FOIA, the FOIA Coordinator shall reduce fees if required by section 4(9) of the FOIA.

#### 16.13 Waiver Or Reduction of Fees for Public Benefit

The City's provision of many public records free of charge on its internet site and the provision of 1 free hour of staff time for search, examination, review, or the deletion or separation of exempt from nonexempt information for FOIA requests

reflect the City's determination to provide reasonable quantities of public records free of charge to benefit the general public. However, in special circumstances, the FOIA Coordinator may additionally waive some or all of the fee if the FOIA Coordinator determines that it is in the public interest because searching for or furnishing copies of the public record primarily benefits the general public.