

**CITY OF LIVONIA
FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES**

Subsection 4(4) of the Michigan Freedom of Information Act, MCL 15.231, et seq (the “Act” or “FOIA”) requires that the City of Livonia establish and publish procedures and guidelines for charging fees and costs for records provided pursuant to the Act. This policy is intended to be published and posted on the City’s website and to meet the Act’s requirements.

Where not otherwise defined, the words and phrases contained in this policy shall have the meaning given to them by the Act. The FOIA Coordinator, per MCL 15.236, is the City Attorney, who is authorized to designate other City staff to act on his or her behalf in coordinating the various City departmental responses to requests and processing appeals under the Act.

SECTION 1. FOIA RESPONSES

- 1A. A FOIA Request must be in writing and must sufficiently describe the requested public record to enable the department responsible for maintaining the requested record to identify the same. Where a written request is received which does not sufficiently describe the public records requested, the FOIA Coordinator or his or her designee may send notice to the person requesting a clarification of the request. Such notice, if sent, shall not be interpreted as a denial of the request.

- 1B. No specific form is required to submit a FOIA request, but the FOIA Coordinator may make a FOIA request form available for use by the public.

- 1C. Each department, board or commission of the City will designate a person or persons knowledgeable about all material the department, board or commission posts on the City website. Upon receipt of a FOIA request, the department will submit said request to such person(s) to determine whether any of the requested information can be found on the City’s website. Such person(s) shall make this determination as soon as possible, recognizing that such determination is the first step in a highly time-sensitive process. Such person(s) shall then make available to the department, board or commission information sufficient to accurately complete line 1 of the Freedom of Information Act Request Detailed Cost Itemization (the “FOIA Itemization”), attached hereto as Attachment A.

- 1D. If the request is granted, or granted in part, payment must be made in full for all fees stated in the FOIA Itemization before the public record is made available. A copy of these Procedures and Guidelines shall be provided to the requestor with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and the Written Public Summary of same are maintained on the City’s website, then a website link to those documents may be provided in lieu of providing paper copies.

- 1E. To the extent a FOIA request is denied, the reason for denial (exemption, nonexistence) shall be stated in the response, along with an explanation of the right to appeal to the Mayor or sue in Wayne County Circuit Court.
- 1F. The department, board or commission which maintains the requested record shall provide copies of any public records as provided for in the Act and shall retain a copy of all written requests and records provided in response thereto on file for a period of not less than one (1) year. In lieu of retaining unredacted records provided in response to a FOIA request, the department, board or commission may retain a list of such records, which identifies the records with sufficient specificity to enable such records to be recovered if necessary. Redacted records shall be retained in their redacted forms.
- 1G. A person has the right to inspect a public record, unless exempted by law or court order. The City may charge a fee for the necessary copying of a Public Record for inspection pursuant to subsection 4(1) of the Act. Original records must be protected from loss, unauthorized alteration, mutilation or destruction.
- 1H. The Act does not require the City to create records where none currently exist, or to provide answers to questions. This exemption includes analyzing, compiling, or summarizing existing information into a new format. Neither the Act nor these procedures and guidelines apply to the provision of “enhanced access” to information pursuant to Act No. 462 of the Public Acts of 1996.
- 1I. A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a FOIA request, and any such request will be denied.

SECTION 2.

CHARGES IN CONNECTION WITH COPYING PUBLIC RECORDS

- 2A. FOIA requests may be subject to copying charges reflecting the actual costs of making copies in the most economical manner possible, including copier costs, paper costs, and other supply costs. The Finance Department shall determine an appropriate cost per page, subject to re-computation by individual departments where copying costs are demonstrated to differ from the costs determined by the Finance Department, but in no case may the fee for copying exceed 10 cents per sheet of 8½ by 11-inch paper or 8½ by 14-inch paper. Postage may also be charged as applicable and shall include the actual postage, as well as the cost for envelopes or other containers used for mailing copies of the public records requested.
- 2B. The City may also charge a fee for the labor involved in searching for, examining, reviewing, and redacting a public record as permitted by the Act, where necessary to avoid unreasonably high costs to the City, due to the nature of the request in the particular instance. In determining whether to charge a fee for labor, the FOIA Coordinator shall consider the anticipated cost to the City, whether response costs exceed

the usual cost to respond, the need for a devoted staff member to adequately respond to the particular request, and similar factors, along with the requirements of Section 4 of the Act. The fee shall not depend on the identity of the party making the FOIA Request, except as set forth below.

- 2C. Where anticipated labor costs would exceed \$100.00, taking into account the downward rounding requirements of Section 4 of the Act (including the rule that there is no charge for any category of labor requiring less than 15 minutes), the costs to the City shall be presumed to be unreasonably high. The estimated labor charges will be included and explained on the FOIA Itemization.
- 2D. Where total fees and charges are reasonably anticipated to exceed \$50.00, the City is further authorized to require that fifty percent of the estimated fees and charges be paid in advance of the performance of the work as authorized by the Act. If a deposit is charged it must be explained to the requestor on lines 1-9 of the FOIA Itemization. The balance must be paid prior to the release of the public record copies.
- 2E. Charges for labor costs shall be determined by using the wages of the lowest paid, full-time City employee capable of retrieving the records requested.
- 2F. The City of Livonia has limited in-house capabilities for copying photographs, microforms, maps or plans. If a person requests that copies be made of these or large documents which must be copied off-site, the department which maintains the requested record will determine and assess those costs. If an employee of the public body is required to deliver and/or pick up the public records and/or copies of public records, the hours spent and applicable mileage (at City rates) will also be applied to the charges to the person(s) requesting the public records.
- 2G. The FOIA Coordinator will handle all requests for discounts and/or exemptions from fees in accordance with the Act.
- 2H. Copy fees and mailing charges for future issuances of regularly published public records may be arranged through the FOIA Coordinator. A person can request that a public record, which is regularly published, be sent to them or they may be called for pick up of the public record for a period of time, not to exceed six months, unless extended.
- 2I. The City requires that an escrow deposit of \$35.00 be paid when a request for copies of regularly published public records is made to the FOIA Coordinator. The City will charge against the escrow for the costs of copying and postage. There will be no labor charges because the requested record is routinely developed. An account sheet of the number of copies and costs for mailing will be maintained by the department which maintains the record. If the escrow deposit is reduced to \$5.00 or less prior to the expiration of the request, the department which maintains the record will contact the

person for an additional deposit or termination of the request. (See FOIA Worksheet for Future Issuances, Attachment B).

- 2J. Any dispute over the amount charged in connection with a FOIA response may be appealed to the Mayor, pursuant to MCL 15.240a, who may designate the FOIA Coordinator or his or her designee to review the matter. The Mayor's ruling on the matter shall be considered final unless overturned by a court of competent jurisdiction.
- 2K. All unpaid invoices for FOIA response costs shall be forwarded to the Finance Department.

SECTION 3

PROCEDURES FOR SEPARATION OF RECORDS

- 3A. If a request is made for an existing public record that includes information which is exempt from disclosure under the Act and information which is not exempt, the FOIA Coordinator or designee must separate the material and make the non-exempt material available for examination and/or copying. The material which had to be separated should be generally described, unless doing so would reveal the contents of the exempt information and thus defeat the purpose of the exemption. The labor cost associated with such procedures shall be treated in accordance with MCL 15.234.
- 3B. If an entire record is exempt from disclosure, the FOIA response will explain why the record is exempt.

SECTION 4.

EFFECT OF POLICIES STATED HEREIN

- 4A. The policies and procedures stated herein supersede all prior FOIA policies and procedures of the City and its departments, commissions, boards and committees.
- 4B. Departments, commissions, or boards of the City may adopt and maintain their own policies with regard to FOIA Requests, so long as such policies are not inconsistent with these procedures and guidelines or the Act. The 16th District Court, pursuant to its exemption from the Act, is not subject to these procedures and guidelines.
- 4C. Notwithstanding anything stated or implied herein or inferred herefrom, it is the City's intent to fully comply with the Act. Any provision of these procedures and guidelines deemed to violate the Act is void, but the remaining policies and procedures not in violation of the Act shall remain in force and fully effective.