

## CITY OF LUDINGTON

### FREEDOM OF INFORMATION ACT (FOIA) PROCEDURES AND GUIDELINES

Updated & Adopted: April 8, 2024.

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1. **Purpose:**

To establish and make publicly available procedures and guidelines for use by City Departments and employees regarding requests for public records and the costs and fees incurred when providing copies of public records pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL §15.231, *et seq.*, as amended (FOIA or Act).

2. **Policy:**

It is the public policy of the City of Ludington that public records of the City be provided when requested consistent with the Freedom of Information Act, the City Charter, this policy, and other applicable law.

3. **Definitions.** For purposes of this Policy:

- a. *FOIA coordinator* refers to the individual designated by the City to accept and process requests for public records under the Act, which shall be the City Manager or their designee. Unless otherwise indicated, any and all references in this policy to the “FOIA coordinator” shall be deemed to include any designee. The FOIA coordinator shall have the authority to implement procedures to administer the FOIA process, consistent with these procedures and guidelines, the Act, and other applicable City policies and law. All written FOIA requests shall be retained for a period of not less than one year.
- b. *Indigent* or *indigency*, for purposes of determining whether an individual is entitled to a reduced fee under Section 4 of the Act (MCL §15.234), shall mean an individual who by proper affidavit demonstrates that he or she meets both the income and the asset standards set forth in the City’s Poverty Exemption Policy adopted pursuant to MCL §211.7u (and as duly amended from time to time). An affidavit of indigency filed under Section 4 of the Act shall be effective for a period of 3 months from the date it is filed with the FOIA coordinator.
- c. *Person* means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Unless it is one of the foregoing, an assumed name, an unincorporated voluntary association, a media outlet or other similar group without recognized legal status is not a “person” within the meaning of this Policy. Person does not include 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.

- d. *Public record* means a writing prepared, owned, used, in the possession of, or retained by the City of Ludington in the performance of an official function, from the time it is created. Public record does not include computer software.
- e. *Writing* means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.
- f. *Written request* means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means. All requests, in whatever form, received from the same person within a 24-hour period shall be considered a single request, requiring only a single response from the FOIA coordinator.

4. **FOIA Request.**

- a. All requests for inspection or copies of public records shall be in writing, and shall describe the public record(s) sufficiently to enable the FOIA coordinator to find the public record(s). Nothing in this policy shall be construed to prohibit the FOIA coordinator from communicating with the requesting person to seek clarification of an ambiguous, obscure or doubtful request. If clarified by the requesting person, the FOIA request shall be deemed amended to include the clarification(s). 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 Act.
  - i. If a person is disabled (either temporarily or permanently) and unable to make a 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, assisting in writing out the request for the disabled 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 office of the City Clerk.
- b. If, in the reasonable opinion of the FOIA coordinator, multiple or duplicative requests from one or more persons who appear to be acting in concert in an effort to evade the cost reimbursement or circumvent other material provisions of this policy or the Act are received, the FOIA coordinator may treat such requests as a single request or take other action as the FOIA coordinator deems reasonable in the circumstances to prevent excessive and unreasonable interference with the discharge of the City's functions or the functioning of its

departments, or to protect its public records from loss, unauthorized alteration, mutilation or destruction.

- c. As required by the Act, each request must include the requesting person's complete name, address and either a valid telephone number or email address. If the request is made by a person other than an individual, the complete name, address and valid telephone number or email address of the person's agent (who is an individual). Addresses must comply with U.S. Postal Service addressing standards.
- d. A requesting person 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.
- e. A person has a 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.

5. **Inspection of Public Records.**

- a. Upon receipt of a request for inspection of public records, the FOIA coordinator shall identify the subject matter of the request and forward the request to the applicable City Department(s), official(s), and/or employee(s), notify same 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.
- b. The FOIA coordinator shall calculate the estimated cost of responding to the request based on the estimate(s) received from the employee(s) and shall determine whether a deposit will be required. This determination must be made as part of the official City response to your request in compliance with the provisions of the Act.
- c. 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 website, 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. Once notified, if the requester still wishes to receive paper copies of the requester public records, the FOIA coordinator shall inform the requester of the additional charge(s) to inspect the records and obtain copies thereof.
- d. The FOIA coordinator shall review any redactions, omissions, and exemptions and shall request the assistance of the City Attorney's office as necessary to ensure compliance with applicable law.

- e. 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 Act, 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.
- f. Upon receipt of the signed acknowledgement 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 their 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 prior approval of the FOIA coordinator or their designee.
- g. The FOIA coordinator may impose such reasonable restrictions and conditions as may be necessary to protect the public records and to prevent excessive or unreasonable interference with the conduct of the affairs of the City or employee functions. In order to preserve or protect original written records, or to preserve the integrity of records on microfilm, microfiche or computers, the FOIA coordinator shall determine the format of all public records to be made available for inspection or copying under this policy. Without limiting the generality of the foregoing, the FOIA coordinator may require that copies of the requested records be made available for inspection, rather than the originals, and may charge the requesting person standard rates for the copies. Alternatively, the FOIA coordinator may electronically scan original records and provide the requesting person with a digital copy, either by email delivery or by copying the records to a CD, flash drive, or other memory storage device, and charge the requesting person for the actual incremental cost of the storage media and for the labor costs to scan the original records. Unless otherwise determined by the FOIA coordinator in a particular case, all electronically stored records (including emails) that are requested to be transmitted in digital form shall first be converted to .pdf or other similar format that prevents alteration and preserves the integrity of the record at the time of its release.
- h. The City shall not be required to make a compilation, summary or report of information, nor shall the City be required to create any new public record.

6. **Charges.**

The City has determined, consistent with the Act, that failure to charge fees in situations where the fees would be equal to or greater than \$50.00 would result in unreasonably high costs to the City (*See also*, Section 9, below). Therefore, subject to the provisions of and limitations in the Act, the FOIA coordinator shall impose the following charges:

- a. The City may require a deposit prior to processing a FOIA request if the estimated fees for fulfillment of the request exceed \$50.00. To preserve public resources, the City generally requires a deposit when permitted under the Act. The FOIA coordinator should determine as soon as possible whether a request requires a deposit.
- b. When a deposit is required, the FOIA coordinator shall send a response letter with the following deposit information included therein:
  - i. The total estimated fee in the standard form for detailed itemization of costs;
  - ii. That ½ of the total estimated fee is required as deposit;
  - iii. That the request will not be processed until the deposit is received;
  - iv. That the balance of the actual final fee must be paid after processing before the public records will be released;
  - v. That the actual final fee may be greater or less than the estimate;
  - vi. A best efforts estimate regarding the time the records will be provided; and
  - vii. 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 at least 48 days after the notice is sent.
- c. The period of time to respond to the request is tolled from the date the deposit notice is sent until the deposit is paid.
- d. 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:
  - i. The final fee for the prior request was not more than 105% of the estimated fee;
  - ii. The public records made available contained the information sought and remain in the City's possession;

- iii. The public records were made available within the estimate time frame;
  - iv. Ninety (90) days have passed since the City notified the requesting individual in writing that the public records were ready;
  - v. The requesting individual is unable to show proof of payment for that prior request; and
  - vi. The City has calculated an estimated detailed itemization for the new request's fee deposit.
- e. The FOIA coordinator shall not require the 100% estimated fee deposit if any of the following applies:
- i. The individual is able to show proof of full payment for the prior request;
  - ii. The individual pays in full the amount due for the prior request; or
  - iii. 365 days have passed since the individual made the request that was not paid for.
- f. If the City requires a deposit and the deposit is not received by the City within 45 days from the receipt by the requestor of the notice that a deposit is required, and if the requestor 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 deposit requirement is considered received 3 days after it is sent, regardless of the means of transmission.
- g. 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.

7. **Responses.**

- a. A written request made by fax, e-mail or other electronic transmission shall not be deemed received until one (1) business day after the electronic transmission is made. Unless otherwise agreed to in writing by the requester, the FOIA coordinator shall respond to all requests within 5 business days after the City receives the request by doing one of the following:
- i. Granting the request.
  - ii. Issuing a written notice to the requesting party denying the request.
  - iii. Granting the request in part and issuing a written notice to the requesting party denying the request in part.

- iv. Issuing a written notice extending for not more than ten (10) business days the period during which the City shall respond to the request.
  - v. Issuing a written notice that the public record is available on the City’s website.
  - vi. Issuing a written notice requiring a deposit before the request will be processed, if the estimated fee exceeds \$50.00.
- b. If a public record contains material which is not exempt from disclosure under the Act as well as material which is exempt, the FOIA coordinator or their designee responding to the written request for such public record shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.
  - c. Each City officer or employee receiving and/or authorized to respond to requests for public records may consult with the City Attorney’s office, as necessary, prior to responding.
  - d. The final determination of the City must either grant or deny the request, in whole or in part, and contain the following:
    - i. A statement specifying that the request has been “granted,” “denied,” or “granted in part and denied in part.”
    - ii. 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.
    - iii. A statement specifying 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.
    - iv. 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 Manager, 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 Act (MCL §15.234). Within 45 days after the appeal determination, you may commence a civil action in Mason County Circuit Court for a fee reduction.*

- v. A link to the City internet address of these procedures and guidelines, the written public summary required under the Act, or, if those documents are not on a City internet site, copies of those documents.
- vi. 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.
- vii. If any portion of the request is denied, the following statement specifying the requester's right to appeal:

*To the extent this response indicates that all or a portion of your request has been denied, then under Section 10 of the Freedom of Information Act (FOIA) you may, at your option, either 1) submit to the Ludington City Council, 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 Mason 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.*

- viii. The signature of the FOIA coordinator or their designee.

## 8. **Appeals.**

- a. The City Council shall be the head of the public body for all appeals.
- b. 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 Council within 180 days after the date the final determination is sent.
- c. Appeal of Fees. If the City makes a final determination to require a fee, the requester must submit an appeal for a fee reduction to the City Council within 45 days after notice of the required fee is sent.
- d. Validity of Appeal. The FOIA provides that in order to be a valid appeal, the appeal must be in writing, addressed to the City Council, specifically state the word "appeal," and identify the reason(s) for reversal of the denial or, for a fee appeal, how the fee exceeds the fee permitted by the FOIA and this policy.
- e. Appeal Procedure.
  - i. Upon receipt of a valid appeal, the FOIA coordinator shall provide the City Council and the City Attorney with a copy of the appeal, the due date, and the necessary information to make a decision on the appeal.

- ii. 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. Such an extension shall extend not more than 10 business days the period which the City Council shall respond to the written appeal, and shall be reserved for unusual circumstances, as detailed below. The City Council shall not issue more than 1 notice of extension for a particular written appeal.
  - iii. On the direction of the City Council, the FOIA coordinator shall prepare a draft written decision for the City Council's review or transmit the final written decision after the City Council's approval.
- f. Written Decision. The written decision on an appeal shall contain the following:
- i. 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.
  - ii. For a fee appeal, the written decision shall (a) waive the fee, (b) reduce the fee, with an indication of the specific basis under Section 4 of the Act that supports the remaining fee and a statement of certification from the City Council that the statements therein are accurate and that the reduced fee amount complies with Section 4 of the Act and the City's publicly available procedures and guidelines, (c) uphold the fee, with identification of the specific basis under Section 4 of the Act that supports the fee and a statement of certification from the City Council that the statements therein are accurate and that the fee amount complies with Section 4 of the Act and the City's publicly available procedures and guidelines.
  - iii. If the result is 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.
  - iv. The signature of the Mayor or their designee.
- g. 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. If an extension of an appeal for either a fee or a denial is warranted, the FOIA coordinator or their designee shall advise the City Attorney's office as soon as possible of the reasons. "Unusual circumstances" means any one or a combination of the following, but only to the extent necessary for the proper processing of a request:
- i. 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.

- ii. 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.

- h. City Council is not considered to have received a written appeal under this Policy until the first regularly scheduled meeting of City Council following submission of the written appeal. If the City Council fails to respond to a written appeal, or if the City Council upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing an action in circuit court pursuant to the Act.

9. **Fee Calculation.**

- a. Standard Form. 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 as authorized by the Act.
- b. Fee Components. Based on the volume and complexity of requests that the City of Ludington 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:
  - i. That portion of labor costs directly associated with the necessary searching for, location, and examination 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.
  - ii. That portion of labor costs, including necessary review, if any, directly associated with the separation and deletion of exempt information from nonexempt information, including but not limited to document and/or video redaction. These labor costs shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.
  - iii. For public records provided to the requester on nonpaper physical media, the actual and most reasonably economical cost of the computer disc(s), computer tape(s), or other digital or similar media.
  - iv. 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.

- v. 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.
  - vi. 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.
  - vii. The City has limited in-house capabilities for copying photographs, audio or videotapes, microforms, maps, or plans. If a person requests that copies be made of these or large documents which must be copied off-site or reproduced in electronic means (and on an electronic storage device, such as a USB or "flash" drive, CD-ROM, or other device for storage of electronic data), the FOIA coordinator will determine and assess those costs. If a City official or employee is required to deliver and/or pick up the public records and/or copies of public records, the labor hours (calculated in accordance with the provisions set forth above) spent and applicable mileage (at the then-current IRS mileage reimbursement rate) will be applied to the requesting person's charges for the public records.
- c. Charges for Search, Examination, Review, Deletion, and Separation. The City shall charge a fee for recovery of labor costs directly associated with 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 by the City. The phrase "unreasonably high costs," as it is used in MCL 15.234(3), shall be deemed to relate to the costs imposed upon the City by a particular FOIA request where such costs would be excessive and beyond the usual amount associated with staff time spent by City staff performing a search for or retrieval of electronic public records or spent separating or deleting exempt information from nonexempt information from video recordings and/or documents, including necessary review thereof.

- d. **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 website and the requester would still 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.
- e. **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.
- f. **Outside Labor Costs.** If the City does not employ a person capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in Section 14 of the Act as determined by the FOIA coordinator on a case-by-case basis, the City may compile and charge said necessary contracted labor costs used for the separation and deletion of exempt information from nonexempt information in the same manner as employee labor costs under the provisions set forth above, provided the City clearly identifies the name of the contracted person or firm on the detailed itemization. However, such time to be charged shall not exceed an amount equal to 6 times the state minimum hourly wage rate determined under section 4 of the improved workforce opportunity wage act (Public Act 337 of 2018; MCL 408.934), as that rate may change from time to time. As of the date of adoption of this policy, the wage rate is \$10.56. As the rate increases under MCL 408.934, the rate charged under this policy shall automatically change without action by the City Council or need for amendment of this policy. The charges for such services will be billed in increments of 15 minutes or more, and all partial time increments shall be rounded downward.
- g. **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.

- h. **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 resource, 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, when practicable.
- i. **Requests Less than \$1.00.** In the interests of cost effectiveness, FOIA requests that cost \$1.00 or less to process will be provided at no charge.
- j. **No charge will be made for the redaction of documents if the City previously redacted the public record in question, if the redactions as applied also apply to the new requester, and the redacted version is still in the City's possession.**
- k. **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.
- l. **Disability.** The City shall not charge a disabled individual additional costs to provide special accommodations required by the Americans with Disabilities Act.
- m. **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:
  - i. **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:
    - 1. The individual has previously received discounted copies of public records under this subsection from the City twice during that calendar year.
    - 2. 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.

ii. 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:

1. Is made directly on behalf of the organization or its clients.
2. Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, Public Act 258 of 1974 (MCL §330.1931).
3. Is accompanied by documentation of its designation by the state.

n. 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.

o. Waiver or Reduction of Fees for Public Benefit. The City is determined to provide reasonable quantities of public records free of charge to benefit the general public. In special circumstances, the FOIA coordinator may additionally waive some or all of the fee associated with a particular request 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.

10. **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.

a. 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 such 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.

- b. 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.
- c. 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 all require redactions.
- d. 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 to the City Manager and the City Attorney. 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.
- e. 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.
- f. 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.
- g. Internet Records. The FOIA provides that public records that are publicly available on the City's internet website 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 website and provide the specific internet address of those records, if known.