

# **CITY OF LAINGSBURG**

## **Freedom of Information Policy**

### **Policy**

It is the policy of the City to provide access to all documents except those documents or portions of documents exempt from release under law.

Further, it is the policy of the City to make available information within its various databases and files, except for police databases and files, that would not be exempt from disclosure to citizens under law, provided the compilation of the information can reasonably be accommodated using existing personnel, while maintaining **other** services and that the full costs of access are recouped, to the extent permitted by law.

The procedures are intended to implement the policies in accordance with the requirements of the Michigan Freedom of Information Act ("FOIA"). The Freedom of Information Act only addresses the release of **documents** that exist at the time of the request.

### **Procedures**

Note: Electronic copies of this policy and various applicable form letters are available on the City's internal network at <\\:\Policies and procedures\FOIA> Policy

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#### **1.0 FOIA Coordinator**

For purposes of requirements of the FOIA, the administrator is designated as the FOIA Coordinator of the City.

- 1.1 The FOIA Coordinator shall maintain the records related to requests processed for one year plus one day. If litigation arises regarding the City's response to a FOIA request, the City Attorney or his/her designee will notify the FOIA Coordinator to retain the relevant records until such time as the City Attorney or designee informs his/her that the records may be destroyed or otherwise disposed of.

#### **2.0 FOIA Coordinator Responsibilities**

- 2.1 Response Processing
  - 2.1.1 Transmittal Preparation

The FOIA Coordinator is responsible for transmitting the requester the City's official response to each FOIA request. The FOIA Coordinator shall receive from departments the transmittal of documents, proposed response letter and computed costs. The FOIA Coordinator shall review the transmittal for both compliance with the City policy and consistency of the City's response to similar requests. Any required changes shall be immediately discussed with the responding department or, if appropriate, the City Attorney.

#### 2.1.2 Document Storage

Documents to be released directly by the Coordinator shall be held for one year plus one day. If the requester fails to pay the amount due the City or fails to pick up the document (where pickup is requested), the document may be recycled, destroyed or returned to the processing department. 'Original' documents (usually preprinted reports or information brochures) shall be returned to the appropriate department.

#### 2.2 Record Keeping

The FOIA Coordinator shall maintain a chronological file of all FOIA requests processed together with a copy of the letter of response. Requests and correspondence associated with requests made over one year prior may be recycled or otherwise disposed of.

#### 2.3 Payment of Costs

The FOIA Coordinator shall be responsible for collecting the computed costs (including deposits) prior to release of the requested documents. If the documents are to be viewed at processing department, the FOIA Coordinator shall notify the department of when the requester has paid the requested fees. The Coordinator shall retain records documenting when the review is complete. The FOIA Coordinator is all responsible for making the determination of public interest waivers of costs under Section 11.4.4.

#### 3.0 Processing Department Responsibilities

The "Processing Department" is the department(s) under whose control or possession the requested documents would be found, if the document exist.

- 3.1 The Processing Department is responsible for retrieving documents requested under **FOIA**, identifying portions that should be redacted or exempted, if any, computing all costs for retrieval, copying and preparing the transmittal letters for the Coordinator for **FOIA** requests.

#### 4.0 Oral Requests for Existing Documents

General, oral requests for documents do **not** constitute a request under **FOIA**. However, if a citizen making an oral request is disabled, either temporarily or permanently, so that he or she is unable to make the request in writing, City employees must make special accommodations. It is the duty of the department to write out the request for the citizen as an accommodation under the Americans Disability Act. Questions concerning equipment and service accommodations should be directed to the Public Information Office. Once written, the request should be processed as a formal request under **FOIA**.

Departments may also respond to oral requests for documents as may be appropriate for the particular department" operations. Oral requests for **generally distributed documents** should be honored whenever possible. **Generally distributed documents** include brochures, questionnaires, activity application forms, voter registration forms, public meeting agendas and the like. These examples are not all inclusive. If other categories of documents, such as contracts, memoranda to Council or letters to other public officials are generally provided based on informal requests, you should continue to make the documents available. Any

customary charges (if any) for generally distributed documents are to be collected by the department distributing the document. In no case may the charge exceed the amount that would be under **FOIA**.

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## 5.0 **Writing Requests for Existing Documents**

### 5.1 General Considerations

5.1.1 The FOIA requires that requests for documents be in writing. Written requests include letters, memos, fax requests, and Internet e-mail. Documents include microfilm, computer files, paper documents of all types, photographs, magnetic tape or any other method for storing words, pictures or data.

5.1.2 For a request to be considered a sufficient writing to satisfy the FOIA, it must contain the following:

- a) The complete name of the requester
- b) The mailing address of the requester written in compliance with the United States Postal Service Standards.
- c) The requestor's telephone number or email address. Corporate entities who request records under the FOIA must provide this information for a company's agent. A request that does not contain this information may be denied or invalid.
- d) A **statement** indicating that the requester will pay the costs allowable under the **FOIA** or documentation showing that the requester is receiving public assistance or other facts showing inability to pay due to indigence.

### 5.1.3 Civil Action Pending

Adopted rules allow the City to obtain sufficient information to determine if the request documents related to pending civil actions to which the City is a party. If it does, the City can deny the **FOIA** requests. The City form gather this information through a statement certifying that the requester is not requesting documents which are related to any civil actions where the requester is a party to the action either against the City, or by the City against him or her, and he or she is not acting on behalf of such a party. If the requester does not use the City form, and if the processing department suspects that the requested documents are related to a civil action to which the City and the requester are parties, contact the Attorney's office immediately for advice and consultation.

### 5.1. Specific Types of Documents

#### 5.2.1. Generally Distributed Documents

Written requests for generally distributed documents do not have to be processed using the full FOIA procedures unless the written request specifies that it is requested pursuant to FIOA. oral requests are processed as required under Section 4.0.

#### 5.2.2 Copyrighted Documents

Copyrighted documents may not be duplicated if you have notice that they have been copyrighted unless the City owns the copyright and the City allows distribution of the copyrighted material. You have notice if the word “copyright” (or symbol ©), the date of copyright and the name of the copyright owner appear on the document.

A requester may obtain access to view a copyrighted document under **FOIA**. A requested for a copy of copyrighted materials where the City is not the owner of the copyright should be handled as if the request was for “Review Only Requested”. See procedure Section 6.2.5(d) and (e) for more detail. Where the City owns the copyright, you may copy the document for distribution but you must ensure that the copyright identification is upon the document copy. An example of a City owned copyright is a print of a GIS map showing various details.

#### 5.2.3 Trade Secrets/Confidential Financial Documents

It is rare that documents fall within this category. First, it must have been voluntarily provided to the City. Second, the documents must have been provided only after all the stringent steps for authorizing confidentiality have been completed. Third, the documents must have been presented for developing governmental policy. Information or documents submitted to obtain a contract, license or some other benefit from the City are NOT exempt from **FOIA** disclosure. Contact the Attorney’s Office before granting or denying access to documents of this nature.

#### 5.2.4 All Other Existing Documents

Requests for documents in this category must be processed under procedures used for FIOA requests.

#### 5.2.5 Exceptions

a) Other statutes govern some document requests. For example, employees may obtain access to their personnel files under the Bullard-Plawecki Employee Right to Know Act. Bullard-Plawecki also imposes other response requirements upon the City, including protecting certain kinds of documents that might be found within the personnel files. Labor law permits access to certain documents. Obtain advice from the City Attorney’s Office when receiving a **FOIA** request for documents of this nature.

b) Subpoenas for documents may also be served by parties to litigation even though the City may not be a party to the litigation. Contact the City Attorney’s Office for advice immediately after receipt of a subpoena. Subpoenas may be issued for either appearance at a hearing, in court, or simply for production of documents directly to the party issuing the subpoena. Subpoenas for documents not involving a court hearing will generally follow the redaction and response procedures of a FOIA request. Subpoenas involving a court hearing require a case by case evaluation.

### 6.0 **FOIA Request Processing**

The FOIA requires production of the requested document(s) within five (5) business days of receipt unless there are difficulties associated with filling the request requiring additional time. It also permits charging for the costs of searching, reviewing and copying documents. Centralized record keeping of requests is now required. All the

**FOIA** requirements (response time, record-keeping and cost recoupment) are imposed on a City-wide basis. Therefore, the procedures provide a means for City-wide compliance for each individual request.

#### 6.1. Overview

Usually, documents requested under **FOIA** will be gathered by the department receiving the request. However, departments must hand carry requests to other likely departments holding documents covered by the request. The time line for response is computed from the date of the original receipts of the request by the City.

For situations where a copy of the document is requested, the document, together with the computed costs, will be delivered to the **FOIA** Coordinator for response back to the requester. The **FOIA** Coordinator will receive all payments and will keep the required file for all requests. For situations where only a request to review documents is made, the documents will be gathered and held by the department. The costs will still be forwarded to the Coordinator for response back to the requester.

A **FOIA** request forwarded from one department to a second department must be responded to by the second department as if it was the original receiving department.

#### 6.2. Specific Processing Steps

##### 6.2.1. Incoming Review

If the **FOIA** request is hand delivered, the receiving department shall immediately evaluate the request to determine if it is a sufficient writing. See Section 5.1.2. If not, the department shall explain to the requestor what is needed before the City will initiate the search for the requested document(s). If the requester refuses or fails to provide the needed information the department shall accept the request, date stamp it and forward it immediately to the **FOIA** Coordinator for further response.

##### 6.2.2. First Day Review Requirements

All **FOIA** requests **must** receive immediate, same day evaluation by the receiving department. The department must do the following:

- a) Date stamp the request, make a copy of the request, **immediately** forward the original to the **FOIA** Coordinator and evaluate the sufficiency of the request under Section 5.1.2.
- b) Determine the likely location of the request
- c) If the likely location for the requested document is within the department, initiate the search process.
- d) If the **likely** location is at or includes another department(s), **hand deliver that day** the request to the other department(s). E-mail the **FOIA** Coordinator as to which department(s) is (are) also handling the follow-up. Departments receiving the referred **FOIA** request must actively coordinate their response with the **FOIA** Coordinator.

##### 6.2.3. Extensive Time For Review: Voluminous Document Requests Or Requiring Significant Staff Time to Complete

Some requests potentially require retrieval of large numbers of documents. The law requires a requester to sufficiently identify the desired documents to allow the City to find the documents. Extensive search time to find documents generally is because the request is not specific or the request identifies many documents. For example, a request for “any and all documents related to road project X” is usually overly broad for a single departmental review. Does the requester want copies of invoices and journal entries in the finance related to the project as such a broad request might indicate? Financing documents: On the other hand, a request for “any and all documents related to the engineering and construction specifications for road project X” is more specific and limited to a few specific departments, but it would require identifying a large number of documents.

a) Unfortunately, processing the overly broad requests is a multi-step process and a few different approaches are possible. The approach taken for a particular request should be determined by the FOIA Coordinator in consultation with the processing department and, if needed, the Attorney’s Office. Three possible approaches include: (1) Often a call to the requester by the processing department explaining the breadth of the request will result in the requester limiting the request to documents within a single department or category of file. If this approach is selected we MUST obtain a written modification from the requester. Oral modifications are of no effect. (2) The City may process the request as written without contacting the requester. (3) The City may process by requiring a deposit.

Under the third approach, three steps are required. These are: 1) Identify potentially affected departments; 2) Identify the costs to search each department’s records to determine if the department has documents included within the request; 3) Identify cost to retrieve and copy the requested documents.

1) Identify Affected Departments. The processing department responsible for document retrieval should consult with the FOIA Coordinator to identify departments likely to have documents included within the request.

2) Identify Costs to Search Each Department’s Records. For each department Identified as likely to have covered documents (“department #2”), the processing department must send a copy of the request to department #2. In turn, department #2 must provide the processing department the time and per hour cost required to search department #2’s records for possible covered documents. The processing department must gather all the estimated costs for Search. Often, just the cost to search multiple departments will exceed \$50. When the cost to process a FOIA request exceeds \$50 the City may demand a deposit of ½ the cost before proceeding further. See Section 6.2.3b and we should do so for the very broad requests. The processing department can then prepare the response letter to the requester. The response letter that would demand a deposit for the search costs should also include, if possible, guidance to the requester as to how the request could be framed to allow the processing department to find the documents most likely being sought or perhaps suggest that if the search were limited to particular departments the costs would likely be less.

3) Costs to Retrieve and Copy. Once a deposit for the search is received, or the requester narrows the scope of the requests the processing proceeds using the usually procedures found at Section 6.2.5.

b) When a request does **sufficiently describe** the requested documents, but involves a voluminous number of documents, prior to search or copying for voluminous/extensive document requests, the processing department may require a deposit of ½ the fee if the

anticipated cost will exceed \$50. The department shall transmit the deposit request to the FOIA Coordinator along with the proposed transmittal letter to the requester. This request for a deposit must be made within the statutory five (5) day response requirement.

c) A request for a reduced or no fee may only be granted by the **FOIA** Coordinator. An Affidavit of Indigence and other documentation may be required.

#### 6.2.4 Subscriptions

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, Council minutes or agendas). Subscription requests are valid for six (6) months, at the request of the subscriber and can be renewed. Requests of this nature should promptly be forwarded to the **FOIA** Coordinator for processing.

#### 6.2.5 Document Review

If the processing department has some or all of the requested documents, the documents shall be reviewed by the department to identify any portions of the document(s) that are exempt from release under **FOIA**.

##### a) Legal Action Suspected

In all cases where the department suspects the documents relate to existing or probable “civil action” involving the City, the documents should be forwarded to the City Attorney for review. The department shall immediately inform the reviewing attorney (either orally or in writing) of the facts that give rise to the suspicion. Thereafter, the department shall process the request as directed by the reviewing attorney. **Civil action** includes, but is not limited to, formal court cases, arbitration’s, grievances, workers’ compensation cases, federal or state civil rights complaints and City Code civil infractions. See also Section 5.2.5(a). Criminal matters are not covered by this **FOIA** exemption.

##### b) No Exemptions Identified – Copy Requested

The department shall copy the requested documents, compute the accumulated costs and forward the documents, cost data and a proposed transmittal letter to the FOIA Coordinator.

##### c) Exemptions Identified – Copy Requested

The department shall highlight or otherwise identify documents (or portions) for which it determines an exemption applies. The department shall present these initial determinations to the City Attorney for review. The City Attorney will return the documents to the department with direction as to which portions may be redacted. After redacting, the department shall compute the accumulated costs and forward the documents, cost data and a proposed transmittal letter to the FOIA Coordinator. If the department wishes to release data that is otherwise exempt from disclosure under the FOIA, it must follow the procedures for special release that are described in Section 6.2.6 of this Administrative Policy.

##### d) No Exemptions Identified – Review Only Requested

The processing department shall set aside the requested documents for viewing by the requester and shall forward the costs for the search and retrieval of the documents and a proposed transmittal letter to the FOIA Coordinator. Only after presentation of proof of payment of the costs shall the department permit review. If a person has been granted

access to a public record, a representative of the department shall be *present at all times* to insure that nothing is removed from or added to the city files. No public record shall be removed from the department area without the prior approval of the department head.

If the department has not received proof of payment within 20 business days of forwarding cost information to the FOIA Coordinator; it may return the documents to their usual location.

e) Exemptions Identified – Review Only Requested

Requests of this nature are to be handled using the procedures of Section 6.2.5 (c) for situations where the exemption is only part of a document. The requester must pay for all costs associated with making the document **viewable** – in other words, must pay for the copying costs associated with preparing the redacted document. Where the exemption is related to an entire document, the balance of the release shall be handled using the procedures of Section 6.2.5(d). If the department wishes to release data that is otherwise exempt **from** disclosure under the FOIA, it must follow the procedures for special release that are described in Section 6.2.6 of this Administrative Policy.

6.2.6 Release of Documents With Redactable Information

The general policy of the City is to not release information that is exempt from disclosure under FOIA or other law. However, there are circumstances that it is both in the best interests of the City and its citizens to release otherwise exemptible information. As an example, the requester may agree to certain confidentiality and nondisclosure agreements as pre-condition for viewing documents containing exemptible material.

6.2.6.1 Information Relevant to Suspected Legal Action

The receiving department must obtain prior approval from the City Attorney's Office before release. (See Section 6.2.5(a))

6.2.6.2 All Other Information

The receiving department must obtain the prior approval from the FOIA Coordinator. The **FOIA** Coordinator may choose to consult with the Attorney's Office in making his/her decision. The FOIA Coordinator's decision is final.

7.0 **Transmittal Letters**

All subpoenas, FOIA requests or FOIA appeals shall receive a written response. It is the responsibility of the processing department to prepare a proposed response to subpoenas and initial FOIA requests. The proposed response shall be forwarded to the FOIA Coordinator for signature and transmittal.

7.1 Initial Response to FOIA Requests

The initial response may either (a) grant or deny the requested documents or (b) extend the time for response up to ten days.

7.1.1 Granting or denying the FOIA request

The response either granting or denying access in whole or in part to the requested documents must contain the following:



- (a) State the amount of money owed the City from the requester to process the request. The transmittal letter shall indicate where the requester may pick up the released documents and pay the appropriate costs. The letter shall also include the following statement: ***“The City does not warrant or guarantee the accuracy of the information provided. Rather, it provides the documents only to comply in good faith with the Michigan Freedom of Information Act, and not for any other purpose.”***
- (b) If **any** aspect of the response is less than a full granting of the request, you **must** insert a final paragraph exactly as follows:

***If you receive written notice that your request has been denied, in whole or in part, under Section 10 of the Freedom of Information Act, you may, at your option, either 1) submit to the Mayor a written appeal that specifically states the word “appeal” and identified the reason(s) for reversal of the disclosure denial; or 2) file a lawsuit in the 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, you may be awarded reasonable attorney’s fees and damages as specified under the Act.***

© If any portion of a request is denied, state each reason as a separate paragraph. The legally available reasons are listed on Exhibit 1. Appropriate text to use for each reason for denial can be obtained from the Attorney’s Office.

- (c) Signature space for the appropriate FOIA Coordinator.

7.1.2 Extension for FOIA Response Required

(a) If a response to a FOIA request cannot be completed within the statutory five (5) business days after the request is received, then the processing department: (1) notifies the FOIA Coordinator of the extension need and (2) prepares the extension letter for the Coordinator’s signature. Only one extension is allowed under the statute and it may not be for more than 10 business days.

(b) The extension letter must state the reasons(s) for the extension and the **date** by when the requester will receive the response outlined in Section 7.1.1 (above).

- (c) A final paragraph which reads as follows:

***If you receive written notice that your request has been denied, in whole or in part, under Section 10 of the Freedom of Information Act, you may file a lawsuit in the 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, you may be awarded reasonable attorney’s fees and damages as specified under the Act.***

- (d) The Mayor is the signatory for the appeal.

8.0 **Exemption/Redaction Procedures**

If the processing department identified any exempt material, the requested documents and proposed response letter will be forwarded ASAP to the City Attorney’s Office for review and comment.

8.1 Exemptions Highlighted

The proposed exemptions shall be highlighted or otherwise identified for review by the City Attorney’s Office.

8.2 Transmittal Letter Prepared

The proposed transmittal letter will indicate the specific reasons why any material is not being disclosed, if that is the case, as well as costs, where the material may be received or right to appeal or seek judicial review.

8.3 Attorney's Office Review

If there is any difference between the recommendations of the processing department and that of the City Attorney's Office, the processing department will be responsible to follow-up on the differences, with those persons necessary, to see that a decision is made. The FOIA Coordinator is the final decision-maker on disputes after having consulted the Attorney's Office.

8.4 Response

The completed response will be forwarded to the FOIA Coordinator for signature and document distribution.

**9.0 Written Requests for Compiling Information (not governed by FOIA)**

**FOIA** does not require the City to create documents. However, under some circumstances, the City will create a document or compile information. Compiling information, whether from paper files or electronic databases, shall not be performed unless compiling the information can reasonably be accommodated using existing personnel while maintaining other services and that the charges under Section 11.3 are paid. Performing extensive independent research for individuals is prohibited except as necessary in the role of caretaker of records.

9.1 Compilations From Electronic Databases

Requests for reports to be compiled from computer data or other electronic medium shall be processed as time, resources and technical capabilities allow without interrupting or delaying the primary services provided by that department to its customers, external or internal. Such reports may include statistical summaries or lists of specific information. If the department wishes to release data that is otherwise exempt from disclosure under the FOIA, it must follow the procedures for special release that are described in Section 6.2.6 of this Administrative Policy.

9.2 Compilations From Paper Files

Often a citizen will seek small amounts of public information that can be compiled by a brief review of a few documents. The request shall be processed as time, resources and technical capabilities allow without interrupting or delaying the primary services provided by that department to its customers, external or internal. The response may be either oral or written. If the department wishes to release data that is otherwise exempt from disclosure under FOIA, it must follow the procedures for special release that are described in Section 6.2.6 of this Administrative Policy.

10.0 **Appeals**

Under **FOIA** a requester may appeal to the Mayor to reverse a denial of access to all or part of a document. The Mayor's response is due within 10 business days from receipt of the appeal. The time can be extended under unusual circumstances. The appeal must be in writing. The requester may use the City's form, but is not required to do so.

10.1 Receipt of Appeal

If a department receives an appeal, it must immediately do the following: (a) date stamp the appeal and (b) determine if the appeal document meets the statutory criteria.

10.1.1 For an appeal to meet the statutory criteria: (a) it must include the word "**appeal**", (b) it must specifically state one or more reasons the determination should be reversed and, (c) it must be in writing. Please refer to Section 4.0, first paragraph, for procedures to accommodate citizens with disabilities.

10.2 Statutory Criteria Not Met

If the statutory criteria stated in Section 10.1.1 are not met, within three (3) days of receipt the processing department shall prepare a proposed transmittal rejecting the appeal as not meeting the statutory criteria and shall forward the letter to the Mayor for signature.

10.3 Statutory Criteria Met

If the statutory criteria are met, within three (3) days of receipt the processing department shall do the following:

(a) Prepare an unredacted copy of the requested document(s) identifying those portions of the document that had been redacted, and,

(b) Prepare a proposed transmittal letter of the deposition for the Mayor's signature. (See Section 7.2)

(c) Forward the package to the Attorney's Office for review. If the Attorney's Office does not concur, the Attorney's Office will notify the department of its non-concurrence. The processing department and the Attorney's Office shall meet to discuss the Attorney's concern. After consultation if the concerns can be resolved the package shall be forwarded to the Mayor for signature. If the concerns cannot be resolved, the processing department shall arrange a meeting with the Mayor, Attorney and the processing department to discuss the matter.

If the Attorney's Office concurs, the package shall be forwarded to the Mayor within three (3) business days of receipt.

10.4 Mayoral Decision

If under unusual circumstances, additional time for a decision is needed, the Mayor may extend the time for a decision for up to 10 business days. A letter notifying the appellant of the extension must be sent with 10 days of the appeal. The Mayor, upon making his/her decision on the appeal, will transmit the decision to the appellant. He/she shall also return all documents to the FOIA Coordinator for release to the requester or return to the processing department as the decision dictates.

11.0 **Costs**

The FOIA allows the City to be reimbursed for certain costs associated with responding to a document request. Requests for the creation of documents or reports are not limited by the FOIA formulas.

11.1 Generally Distributed Documents

The costs for generally distributed documents shall be set by the distributing department unless otherwise set by City Council, state or federal law. The distributing department may not set the amount charged to exceed the FOIA formula.

11.2 **FOIA** Formulas

In general, the City can be reimbursed for the labor to search, retrieve and review a document plus the costs for copying and transmitting the requested documents. Labor costs are reimbursable at the wage rate of the lowest paid permanent employee *capable of retrieving the* document(s). That means that if the lowest paid permanent employee retrieves the document or performs other associated work, reimbursement is at the lower rate.

The general formula to be used for FOIA calculations is as follows:

Copying costs *plus* search, review and copying labor *plus* postage/transmittal *equals* Required Reimbursement.

Copying costs *equals* For paper copies made using City equipment, is 10 cents per page. Each page that must be copied in order to fulfill the FOIA request may be included in the cost. For other forms of media (video tapes, floppy disks, magnetic tapes, etc.), the actual cost of the materials should be charged. If copying must be performed using outside vendor equipment, the actual invoice cost from the vendor should be charged.

Labor Costs *equals* Hourly wage of lowest paid permanent employee capable of retrieving the document times fringe benefit factor of 1.28 times minutes worked by everyone associated with the search review and copying of the requested documents divided by 60 minutes per hour. Labor costs include the time required to oversee a person wishing to only view the requested documents.

Postage/transmittal costs *equals* Actual postage or transmittal expenses required.

11.3 Creation of Documents/Reports

Departments shall charge a consistent rate for preparing or compiling reports or information covered in Section 9 of this policy equal to \$50 per hour for labor. This rate is intended to recover personnel costs and any other computer time or other associated costs for compiling and/or creating the requested information. Charges for disks, tapes, or other materials for recording electronic information will be according to the City's actual cost for these materials. No outside disks, tapes or other recording mediums are to be used in the City's computer system in order to avoid viruses or other problems. A deposit of 50% may be required for any requests with charges over \$25 before the work is started.

PA 523 Amendment: Townships can consider a request “abandoned” if a good faith deposit is not received within 48 days after the good faith deposit is requested. If the good faith deposit is not paid within that period, the requester would then be obligated to file a new FOIA request to obtain the requested records. The good faith deposit request must specify that the request will be considered abandoned unless a deposit is received within 48 days from the date the letter is mailed.

11.4 Exceptions

11.4.1 Costs Set By Law

Documents which are required to be prepared and sold for a specific fee under Michigan or Federal law are exempt from **FOIA** cost calculation and shall be sold in accordance with the applicable federal law or state statute.

11.4.2 Public Assistance/Indigence

Persons receiving public assistance or presenting facts showing an inability to pay due to indigence shall have the **first** \$20 of charges waived as required by **FOIA**.

11.4.3 Disability

A department may not charge a disabled individual additional costs required to provide the special accommodations required by the American for Disability Act.

11.4.4 Public Interest Waiver

The FOIA Coordinator may waive some or all of the costs as may be in the public interest because furnishing copies of the document(s) would be considered as primarily benefiting the general public.

**Adopted by City Council 4-1-02**