

**City of Lowell
Public Summary of FOIA Procedures and Guidelines**

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is a Written Public Summary of the City’s FOIA Procedures and Guidelines relevant to the general public. For more details and information, copies of the City’s FOIA Procedures and Guidelines are available at no charge at any City office and on the City’s website: http://www.lowellmi.gov/government/city_manager/city_records_through_foia.php

1. How do I submit a FOIA request to the City?

- A. FOIA requests must be made in writing and must sufficiently describe a public record so as to enable the City to find it. There is no required form for submitting FOIA requests. Any letter, email, fax, or other writing will suffice.
- B. Please include the words “FOIA” or “FOIA Request” in the request to assist the City in providing a prompt response.
- C. The Deputy City Clerk, Sue Ullery, is in charge of responding to all FOIA requests for City records.
- D. To ensure proper receipt, the City prefers that FOIA requests be submitted by one of the following methods:

Mail / Hand Delivery	Email	Facsimile
Lowell City Hall Attn: Clerk’s Office - FOIA 301 E. Main Street. Lowell, MI 49331	sullery@ci.lowell.mi.us	(616) 897-4089

2. What kind of response can I expect to my request?

- A. Within 5 business days after receiving a FOIA request, or after 15 business days if a notice of extension is issued, the City will respond to the request. If a request is received by fax or email, the request is deemed to have been received on the following business day. The City will respond to your request in one of the following ways:
 - o Grant the request,
 - o Issue a written notice denying the request,
 - o Grant the request in part and issue a written notice denying in part the request, or
 - o Issue a written notice indicating that the public record requested is available at no charge on the City’s website
- B. If the request is granted, or granted in part, the City may ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.
- C. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the City may require a deposit before processing the request.

3. How does the City calculate FOIA processing fees?

The FOIA statute permits the City to charge for the following costs associated with processing a request:

- A. Labor costs associated with copying or duplication, including making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- B. Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the City.
- C. Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the City.
- D. The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the City's website if you ask for the City to make copies.
- E. The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on the City's website if you ask for the City to make copies.
- F. The cost to mail or send a public record to a requestor.

3.1 Labor Costs

- A. Labor costs are estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
- B. Labor costs are charged at the hourly wage of the lowest-paid City employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- C. Labor costs may include a charge to cover or partially cover the cost of fringe benefits.
- D. Overtime wages are not included in labor costs unless agreed to by the requestor. Further, overtime costs are not be used to calculate the fringe benefit costs.
- E. Contracted labor costs will be charged at a hourly rate not exceeding 6 times the state minimum hourly wage.

3.2 Copying and Duplication

The City will use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

3.3 Non-paper Copies on Physical Media

- A. The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual to the City. The City will procure any needed non-paper media at the most reasonably economical cost.
- B. The City is not obligated to disclose public records on a requested non-paper physical media if it lacks the technological capability to do so.

3.4 Paper Copies

- A. The charge for paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper.
- B. The charge for copies on non-standard sized sheets will paper will reflect the actual cost of reproduction.

3.5 Mailing Costs

- A. The cost to mail public records will reflect a reasonably economical and justified means.
- B. The City may charge for the least expensive form of postal delivery confirmation.
- C. No cost will be made for expedited shipping or insurance unless you request it.

3.6 Waiver of Fees

The charge searching for and copying a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest.

4. How do I qualify for an indigence discount on the fee?

The City will discount the first \$20.00 of fees for a request from: (1) certain qualifying nonprofit organizations advocating for the developmentally disabled or mentally ill: or (2) persons who submit a sworn affidavit stating that they are:

- A. Indigent and receiving specific public assistance; or
- B. If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

However, a person is **not** eligible to receive the \$20.00 discount if he or she:

- C. Has previously received discounted copies of public records from the City two times during the calendar year; or
- D. Is requesting information on behalf of other persons who are offering or providing payment for making the request.

6. How may I challenge the denial of a public record or an excessive fee?**6.1 Appeal of a Denial of a Public Record**

- A. If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the City Manager by filing a written appeal with the City Manager's Office or Clerk's Office.
- B. The appeal must be in writing, specifically state the word "appeal," and identify the reason or reasons you are seeking a reversal of the denial.

- C. Within 10 business days of receiving the appeal the City Manager will respond in writing by:
- Reversing the disclosure denial;
 - Upholding the disclosure denial; or
 - Reversing the disclosure denial in part and upholding the disclosure denial in part.
- D. Whether or not you submitted an appeal of a denial to the City Manager, you may file a civil action in Kent County Circuit Court within 180 days after the City's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the City acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.

6.2 Appeal of an Excess FOIA Processing Fee

- A. If you believe that the fee charged by the City to process your FOIA request exceeds the amount permitted by state law, you may appeal to the City Manager by filing a written appeal with the City Manager's Office or Clerk's Office.
- B. The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.
- C. Within 10 business days after receiving the appeal, the City Manager will respond in writing by:
- Waiving the fee;
 - Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
 - Upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
 - Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the City Manager will respond to the written appeal.
- D. Within 45 days after receiving notice of the City Manager's determination of the processing fee appeal, you may commence a civil action in Kent County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the City acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.