



BAY CITY DEPARTMENT OF PUBLIC SAFETY Written Public Summary of FOIA Procedures and Guidelines

Consistent with Public Act 563 of 2014 amending the Michigan Freedom of Information Act (FOIA), the following is the Written Public Summary of the Department's FOIA Procedures and Guidelines relevant to the general public.

1. How do I submit a FOIA request to the Bay City Department of Public Safety?

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Bay City Department of Public Safety must be submitted in writing.
- No specific form to submit a written request is required. However, a FOIA Request form for your use and convenience is available on the City's website at www.baycitymi.org.
- A request must sufficiently describe a public record to enable the Department to find it.
- Written requests can be submitted in person or by mail to the Law Enforcement Center.
- Requests may be made by facsimile to (989) 895-0910. To ensure a prompt response, the term "FOIA" or "FOIA Request" should be contained on the first/cover page.
- Requests may be submitted by email to citydps@baycitymi.org. To ensure a prompt response, the term "FOIA" or "FOIA Request" should be contained in the subject line.

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

- Within 5 business days after receiving a FOIA request the Department will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day. The Department will respond to your request in one of the following ways:
 - Grant the request.
 - Issue a written notice denying the request.
 - Grant the request in part and issue a written notice denying the request in part.
 - Issue a notice indicating that due to the nature of the request the Department needs an additional 10 business days to respond.
 - Issue a written notice indicating that the public record requested is available at no charge on the City's website.
- If the request is granted, or granted in part, the Department will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the Department will require a deposit before processing the request.

3. What are the Department's fee deposit requirements?

- If the Department has made a good faith calculation that the total fee for processing the request exceeds \$50, the Department will require that you provide a deposit in the amount of 50% of the total estimated fee. When the Department requests the deposit it will provide you with a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.



- If the Department receives a request from a person who has not paid the Department for copies of public records made in fulfillment of a previously granted written request, the Department will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when **all** of the following conditions exist:
 - The final fee for the prior written request is not more than 105% of the estimated fee;
 - The public records made available contained the information sought in the prior written request and remain in the Department's possession;
 - The public records were made available to the individual, subject to payment, within the time frame estimated by the Department to provide the records;
 - 90 days have passed since the Department notified the individual that the public records were available for pickup or mailing;
 - The individual is unable to show proof of prior payment to the Department; and
 - The Department has calculated an estimated detailed itemization that is the basis for the current written request's increased estimated fee deposit.
- The Department will not require the 100% estimated fee deposit if **any** of the following apply:
 - The person making the request is able to show proof of prior payment in full to the Department;
 - The Department is subsequently paid in full for all applicable prior written requests; or
 - 365 days have passed since the person made the request for which full payment was not remitted to the Department.

4. How does the Department calculate FOIA processing fees?

- A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt material from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Department because of the nature of the request in the particular instance, and the Department specifically identifies the nature of the unreasonably high costs.
- The Freedom of Information Act permits the Department to assess and collect a fee for the following six designated components:
 - Labor costs directly associated with searching for, locating and examining a requested public record.
 - Labor costs associated with a review of a record to separate and delete information exempt from disclosure from information which is disclosed.
 - The actual cost of computer disks or flash drives.
 - The cost of duplication of publication, not including labor, of paper copies of public records.
 - The cost of labor associated with duplication or publication, including making paper copies, transferring digital public records to non-paper physical media or other electronic means.
 - The actual cost of mailing or sending a public record.
- Labor Costs
 - Labor costs, excluding duplication, will be estimated and charged in 15 minute increments with all partial time increments rounded down.



- Labor costs will be charged at the hourly wage of the lowest-paid department employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
- Labor costs will also include a charge to cover the cost of fringe benefits. This cost will not exceed 50% of the employee's actual hourly, labor cost.
- Non-paper Physical Media
 - Computer disks and flash drives will be at the actual and most reasonably economical cost.
 - This cost will only be assessed if the Department has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- Paper Copies
 - Paper copies of public records made on standard letter (8½ x 11) or legal (8½ x 14) sized paper will not exceed \$0.10 per sheet of paper.
 - The Department may provide records using double-sided printing, if cost-saving and available.
- Mailing Costs
 - The cost to mail public records will use a reasonably economical and justified means.
 - The Department may charge for the least expensive form of postal delivery confirmation.
 - No cost will be made for expedited shipping or insurance unless requested.
- The total cost of the FOIA request will be rounded down to the nearest quarter dollar (\$0.25).

5. How do I qualify for a reduction of the processing fee?

- The Department may waive or reduce the fee associated with a request if in the sole judgement of the Public Safety FOIA Coordinator that to do so is in the public interest because such can be considered as primarily benefitting the general public.
- The Department will waive the first \$20 of the processing fee for a request if you submit an affidavit stating that you are:
 - Indigent and receiving specific public assistance; or
 - If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.
- You are **not** eligible to receive the \$20 waiver if you:
 - Have previously received discounted copies of public records from the Department twice during the calendar year; or
 - Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- The Department will waive the fee for a nonprofit organization which meets **all** of the following conditions:
 - The organization is designated by the State to carry out activities under subtitle C of the Federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
 - Is made directly on behalf of the organizations or its clients;
 - Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, MCL 330.1931;



- Is accompanied by documentation of its designation by the State.

6. How may I challenge the denial of a public record or an excessive fee?

- Appeal of a Denial of a Public Record

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 file an appeal of the denial with the City Manager. The appeal must be in writing, specifically state the word “appeal” and identify the reason or reasons for reversal of the disclosure denial. Within 10 business days of receiving the appeal the City Manager will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial;
- Reverse the disclosure denial in part and uphold the disclosure denial in part; 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.

Whether or not you submitted an appeal of a denial to the City Manager, you may file a civil action in Bay County Circuit Court within 180 days after the City’s final determination to deny your request. Should you prevail in the civil action the court will award you reasonable attorney’s 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 \$1000.

- Appeal of an Excessive FOIA Processing Fee

If you believe that the fee charged by the Department to process a FOIA request exceeds the amount permitted by State law, you must first file an appeal for a fee reduction to the City Manager. The appeal must be in writing, specifically state the word “appeal” and identify how the required fee exceeds the amount permitted. Within 10 business days after receiving the appeal, the City Manager will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing 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.

Within 45 days after receiving notice of the City Manager’s determination of a fee appeal, you may commence a civil action in Bay 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 an appropriate amount of reasonable attorney’s fees, costs and disbursements. If the court determines that the City acted arbitrarily and capriciously by charging an excessive fee, the court shall award you damages in the amount of \$500.