

## **CITY OF DOWAGIAC**

### **FREEDOM OF INFORMATION ACT (FOIA) PROCEDURES & GUIDELINES**

The Freedom of Information Act requires that the City of Dowagiac disseminate its public records in order to further the public policy of this State so that all persons are entitled to full and complete information regarding the affairs of this City and the official acts of those persons who represent the citizens of this City as public officials and public employees.

The City of Dowagiac is authorized to charge a fee for providing a copy of a public record and a fee for examining, reviewing, separating, and deleting exempt from nonexempt public records, subject to certain limitations and restrictions. The City of Dowagiac is required, by the provisions of said Act, to establish and publish procedures and guidelines to implement the provisions of the Act with respect to fees to be charged to the public.

The City of Dowagiac acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The City of Dowagiac acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

The City of Dowagiac will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The City of Dowagiac's policy is to disclose public records consistent with and in compliance with State law.

### **PROCEDURES AND GUIDELINES**

#### **Section 1: General Policies**

The City Council acting pursuant to the authority at MCL 15.236 designates the City Manager as the FOIA Coordinator. He or she is authorized to designate other City staff to act on his or her behalf to accept and process written requests for the City's public records and approve denials.

If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail and delivered to a City spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The City is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other City staff is obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all written requests for public records received by the City on file for a period of at least one year.

## **Section 2: Requesting a Public Record**

A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by City of Dowagiac must do so in writing. The request must sufficiently describe a public record so as to enable City personnel to identify and find the requested public record.

No specific form to submit a request for a public record is required. However the FOIA Coordinator may make available a FOIA Request Form for use by the public.

Written requests for public records may be submitted in person or by mail to any City office. Requests may also be submitted electronically by facsimile and e-mail. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, electronically mailed or other otherwise provided to him or her in lieu of paper copies. The City will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued or disseminated by the City of Dowagiac on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

A person who makes a verbal, non-written request for information believed to be available on the City's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

## **Section 3: Processing a Request**

Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request the City will issue a response. If a request is received by facsimile, e-mail or other electronic transmission, the request is deemed to have been received on the following business day. The City will respond to the 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 in part the request.
- Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond. Only one such extension is permitted.
- 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 FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request. A copy of these Procedures and Guidelines shall be provided to the requestor with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and its Written Public Summary are maintained on the City's website, then a website link to those documents may be provided in lieu of providing paper copies.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If based on a good faith calculation by the City, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, the City will require a good-faith deposit before processing the request. In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the City to process the request and also provide a best efforts estimate of a time frame it will take the City to provide the records to the requestor. The best efforts estimate shall be nonbinding on the City, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the City; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the office of the Mayor or seek judicial review in the Cass County Circuit Court; and
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

The City shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect City records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal City operations.

The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

#### **Section 4: Fee Deposits**

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation by the City, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not fully paid the City for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person 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 City's possession;

- the public records were made available to the individual, subject to payment, within the time frame estimated by the City to provide the records;
- 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- the individual is unable to show proof of prior payment to the City; and
- the FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator will not require an increased 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 City;
- the City is subsequently paid in full for the applicable prior written request; or
- 365 days have passed since the person made the request for which full payment was not remitted to the City.

### **Section 5: Calculation of Fees**

A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the City because of the nature of the request in the particular instance, and the City specifically identifies the nature of the unreasonably high costs.

The following factors shall be used to determine an unreasonably high cost to the City:

- The particular request incurs costs greater than incurred from the typical or usual request received by the City. *See Bloch v Davison Community Schools, 2011 Mich App Lexis 771, 2011 WL 1564645*
- Volume of the public record requested
- Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
- Whether public records from more than one City department or various City offices is necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The City may charge for the following costs associated with processing a FOIA request:

- 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 of information which is disclosed.
- The actual cost of computer discs, computer tapes or other digital or similar media.
- 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, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means.
- The actual cost of mailing or sending a public record.

Labor costs will be calculated based on the following requirements:

- All labor costs 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 City employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The City may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs until agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disks, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will only be assessed if the City has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- In order to ensure the integrity and security of the City's technological infrastructure, the City will procure any requested non-paper media and will not accept non-paper media from the requestor.

The cost to provide paper copies of records will be based on the following requirements:

- 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. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The City may provide records using double-sided printing, if cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The City may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless requested.

If the FOIA Coordinator does not respond to a written request in a timely manner, the following shall be required:

- Reduce the labor costs by 5% for each day the City exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
  - The late response was willful and intentional.
  - The written request, within the first 250 words of the body of a letter facsimile, e-mail or e-mail attachment conveyed a request for information.
  - The written request included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy" or a recognizable misspelling of such, or legal code reference to MCL 15. 231 et seq or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form.

## **Section 6: Waiver of Fees**

The cost of the search for and copying of 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 because such can be considered as primarily benefitting the general public.

The FOIA Coordinator will waive the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- indigent and receiving specific public assistance; or
- if not receiving public assistance stating facts demonstrating an inability to pay because of indigency.

An individual is not eligible to receive the waiver if:

- the requestor has previously received discounted copies of public records from the City twice during the calendar year; or
- the requestor requests information in connection with other persons who are offering or providing payment to make the request.

An affidavit is sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

A nonprofit organization designated to by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 200 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

- is made directly on behalf of the organization 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.

## **Section 7: Appeal of a Denial of a Public Record**

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial with the Office of the Mayor. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial.

Within 10 business days of receiving the appeal the Mayor will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reverse the disclosure denial in part and uphold the disclosure denial in part.
- Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the Mayor may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal.

Whether or not a requestor submitted an appeal of a denial to the Mayor, he or she may file a civil action in Cass County Circuit Court within 180 days after the City's final determination to deny the request.

If the court determines that the public record is not exempt from disclosure, the court will award the appellant reasonable attorneys' fees, cost and disbursements. If the court determines that the appellant prevails only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs and disbursements.

If the court determines that the City arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages in the \$1,000.

### **Section 8: Appeal of an Excessive FOIA Processing Fee**

If the requestor believes that the City is requiring a fee that exceeds the amount permitted under its policy or state law, the requesting person may do any of the following:

(a) Submit to the Mayor 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 policy or state law. Within 10 business days after receiving the appeal, the Mayor 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, accompanied by a certification by the Mayor that the statements in the determination are accurate and the reduced fee amount complies with the City's policy;
- upholding the fee and issuing a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee, accompanied by a certification by the Mayor that the statements in the determination are accurate and the fee amount complies with the City's policy and Section 4 of the FOIA; or
- issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Mayor will respond to the written appeal.

Or,

(b) Commence a civil action in the Cass County Circuit Court for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal from the Mayor. An action shall not be filed unless 1 of the following applies:

- i. The Mayor failed to respond to the written appeal as required above, or
- ii. The Mayor issued a determination on the written appeal.

(c) If a civil action is commenced against the City, the City is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

### **Section 9: Conflict with Prior FOIA Policies and Procedures; Effective Date**

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by City Council or the City Administration these Procedures and Guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the City Council or the City Administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the City Council or the City Administration, and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of

requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the City Council of any change in these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015

**Section 10: Appendix of City of Dowagiac FOIA Forms**

- Detailed Itemization of Fees Form
- Request Form
- Response Form
- Affidavit of Indigency Form

**FOIA Fee Itemization Form**  
**(Effective July 1, 2015)**

Component	Cost Calculations	Total
1.Labor Costs – Search, Location, and Examination of Records	<p>Enter the hourly wage of lowest paid employee capable of performing the search, location and examination  <math>\\$ \underline{\hspace{2cm}}</math> per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR , if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)  <math>\underline{\hspace{2cm}}\%</math></p> <p>Multiply the hourly wage times the fringe benefit multiplier  <math>\\$ \underline{\hspace{2cm}} \times 1.\underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}</math></p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)  <math>\\$ \underline{\hspace{2cm}} + \underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}</math></p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment  <math>\\$ \underline{\hspace{2cm}} / 4 = \\$ \underline{\hspace{2cm}}</math></p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate  <math>\underline{\hspace{2cm}} \times \\$ \underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}</math></p>	$\$ \underline{\hspace{2cm}}$
2.Employee Labor Costs - Redaction	<p>If performed by the public body’s employee:</p> <p>Enter the hourly wage of lowest paid employee capable of performing the redaction  <math>\\$ \underline{\hspace{2cm}}</math> per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)  <math>\underline{\hspace{2cm}}\%</math></p> <p>Multiply the hourly wage times the fringe benefit multiplier  <math>\\$ \underline{\hspace{2cm}} \times 1.\underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}</math></p> <p><i>*Note: Labor costs for search, location, examination and redaction (categories 1 and 2 on the itemization form) may not be charged unless the failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.</i></p>	
	<p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)  <math>\\$ \underline{\hspace{2cm}} + \underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}</math></p>	

	<p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment</p> <p style="text-align: right;">\$ _____ / 4 = \$ _____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p style="text-align: right;">_____ x \$ _____ = \$ _____</p>	\$ _____
2. Contracted Labor Costs - Redaction	<p>If performed by Contracted Labor (Only permitted if the public body does not employ a person capable of redacting the records as determined by the FOIA Coordinator):</p> <p>Name of person or firm contracted: _____</p> <p>Enter the hourly rate charged by the contractor (may not exceed six (6) times the State minimum wage (i.e. \$8.15x6=\$48.90)</p> <p style="text-align: right;">\$ _____ per hour</p> <p>Divide the hourly rate by four (4) to determine the charge per fifteen (15) minute increment</p> <p style="text-align: right;">\$ _____ / 4 = \$ _____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p style="text-align: right;">_____ x \$ _____ = \$ _____</p>	\$ _____
3. Non-Paper Physical Media	<p>Actual and most reasonably economical cost of:</p> <p>Flash Drives \$ _____ x number used _____ = \$ _____</p> <p>Computer Discs \$ _____ x number used _____ = \$ _____</p> <p>Other Media \$ _____ x number used _____ = \$ _____</p>	\$ _____
4. Paper Copies	<p>Actual total incremental cost of duplication (not including labor) up to a maximum of 10 cents per page:</p> <p>Letter paper (8 1/2" x 11") number of sheets ____ x \$0.____ = \$ _____</p> <p>Legal paper (8 1/2" x 14") number of sheets ____ x \$0.____ = \$ _____</p> <p>Actual cost of other types of paper: Type of Paper: _____ number of sheets ____ x \$ _____ = \$ _____</p> <p>(NOTE: Must print double-sided if available and costs less)</p>	
5. Labor Cost - Duplication Copying, and transferring records to non-paper physical	<p>Enter the hourly wage of lowest paid employee capable of performing the duplication, copying, or transferring digital records to non-paper physical media</p> <p style="text-align: right;">\$ _____ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the</p>	

media	<p>requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) _____%</p> <p>Multiply the hourly wage times the fringe benefit multiplier  <math>\\$ \_\_\_\_\_\_ \times 1.\_\_\_\_\_\_ = \\$ \_\_\_\_\_\_</math></p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)  <math>\\$ \_\_\_\_\_\_ + \_\_\_\_\_\_ = \\$ \_\_\_\_\_\_</math></p> <p>Divide the resulting hourly wage by _____ to determine the charge per _____ (____) minute increment  <math>\\$ \_\_\_\_\_\_ / 4 = \\$ \_\_\_\_\_\_</math></p> <p>(NOTE: May use any time increment for this category)</p>	
	<p>Number of __ minute increments (partial time increments must be rounded down) multiplied by the permitted rate  <math>\_\_\_\_\_\_ \times \\$ \_\_\_\_\_\_ = \\$ \_\_\_\_\_\_</math></p>	\$ _____
6.Mailing	<p>Actual cost of mailing records in a reasonable and economical manner:  Cost of mailing: \$ _____</p> <p>Cost of least expensive form of postal delivery confirmation:  \$ _____</p> <p>Cost of expedited shipping or insurance only if specifically stipulated by the requestor: \$ _____</p>	\$ _____
	Subtotal	\$ _____
Waivers and Reductions	<p>Subtract any Fee Waiver or Reduction:  \$20.00 for indigency or nonprofit organization as further described in the Public Body's procedures and guidelines.</p> <p>Any amount determined by the Public Body due to the search and furnishing of the Public Record determined to be in the public interest.  \$ _____</p> <p>The reduction amount due to the late response of the Public Body. 5% of fee x ____ days late = _____% reduction (maximum reduction is 50%)</p>	-\$ _____
Deposit	Subtract and good-faith deposit received: \$ _____	-\$ _____
	<b>Total Due</b>	<b>\$ _____</b>

**REQUEST FOR DISCLOSURE OF PUBLIC RECORD**

Date of Request: \_\_\_\_\_ Day: \_\_\_\_\_ Time: \_\_\_\_\_

Request Taken By: \_\_\_\_\_  
(employee)

Requested by: \_\_\_\_\_  
(name) (type of identification)

\_\_\_\_\_  
(address) (telephone)

Where can requestor be reached other than above address? \_\_\_\_\_

Nature of Request and Description of Public Records Sought:

Receive Copy: \_\_\_\_ Review, Inspect Copy: \_\_\_\_ Physically Inspect: \_\_\_\_

\_\_\_\_ I request a fee estimate to be provided within 3 days, and agree that the City need not respond to my request until after 5 days after I receive the fee estimate.

\_\_\_\_ I have examined the fee schedule. I agree to pay the reasonable charges of this request, and waive any right to a fee estimate.

\_\_\_\_ I agree that the public body need not respond to my request until: \_\_\_\_\_

\_\_\_\_\_  
Requestor Signature

1. Estimated Cost: \_\_\_\_\_

6. Balance: \_\_\_\_\_

2. Deposit: \_\_\_\_\_

Total Costs: \_\_\_\_\_

3. Balance: \_\_\_\_\_

Control #: \_\_\_\_\_

4. Copying Cost: \_\_\_\_\_

Labor Cost for Searching &  
Reviewing/Monitoring: \_\_\_\_\_

Employee Signature \_\_\_\_\_

Date \_\_\_\_\_

5. Payment: \_\_\_\_\_

**NOTICE OF RESPONSE TO REQUEST UNDER  
MICHIGAN FREEDOM OF INFORMATION ACT**

To: Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date of Request: \_\_\_\_\_

Date of City Response: \_\_\_\_\_

Your recent request for public record(s) under the Michigan Freedom of Information Act (MFOIA), MCL 15.231 et seq., is hereby:

\_\_\_\_ Granted, requested record(s) enclosed.

\_\_\_\_ Granted, however the cost of responding to your request is estimated to exceed \$50.00, therefore a deposit of \_\_\_\_\_ (1/2 of estimated cost) will be required. Upon receipt of your deposit, the requested record(s) will be provided.

\_\_\_\_ Granted, your name will be placed on a subscription list for future issuances of the requested record(s) disseminated on a regular basis. This subscription shall be valid for six (6) months and shall be renewable only upon written request each six (6) months.

\_\_\_\_ Your request for disclosure of information has been denied (in whole) (in part) for one or more of the following reasons:

\_\_\_\_ 1. A public record does not exist under the name given.

\_\_\_\_ 2. The requested records or information are information of a personal nature, the public disclosure of which would constitute a clearly unwarranted invasion of an individual's privacy.

\_\_\_\_ 3. The requested records or information are information that constitute investigating records compiled for law enforcement purposes and disclosure would do one or more of the following: (a) interfere with law enforcement proceedings; (b) deprive a person of the right to a fair trial or impartial administrative adjudication; (c) constitute an unwarranted invasion of personal privacy; (d) disclose the identity of a confidential source or disclose confidential information furnished only by a confidential source; (e) disclose law enforcement investigative techniques or procedures; (f) endanger the life or physical safety of law enforcement personnel;

\_\_\_\_ 4. The requested records or information, if disclosed, would prejudice the public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability.

\_\_\_\_ 5. The requested records or information are specifically described and exempted from disclosure by statute.

\_\_\_ 6. The requested records or information are public records or information that are furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, and the considerations originally giving rise to the exempt nature of the public record remain applicable.

\_\_\_ 7. The requested records or information are trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and: (a) the information is submitted upon a promise of confidentiality by the public body; (b) the promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made; and (c) description of the information has been recorded by the public body within a reasonable time after submitted, maintained in a central place within the public body, and made available to a person upon request.

\_\_\_ 8. The requested records or information are information or records subject to the attorney-client privilege.

\_\_\_ 9. The requested records or information are information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

\_\_\_ 10. The requested records or information are a bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

\_\_\_ 11. The requested records or information are appraisals of real property to be acquired by the public body and are exempt until either of the following occurs: (a) an agreement is entered into; (b) three years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

\_\_\_ 12. The requested records or information are test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination.

\_\_\_ 13. The requested records or information are medical, counseling, or psychological facts or evaluations concerning an individual and the individual's identity would be revealed by a disclosure of those facts or evaluations, including protected health information, as defined in 45 CFR 160.103.

\_\_\_ 14. The requested records or information are communications and notes within a public body or between public bodies of an advisory nature, and they cover other than purely factual materials and are preliminary to a final agency determination of policy or action.

\_\_\_ 15. The requested records or information are records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety.

\_\_\_ 16. The requested records or information are records testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by

the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

\_\_\_ 17. The requested records or information are public records of a law enforcement agency, the release of which would do any of the following: (a) identify or provide a means of identifying an informant; (b) identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent; (c) disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have; (d) disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents; (e) disclose operational instructions for law enforcement officers or agents; (f) reveal the contents of staff manuals provided for law enforcement officers or agents; (g) endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies; (h) identify or provide a means of identifying a person as a law enforcement officer, agent, or informant; (i) disclose personnel records of law enforcement agencies; (j) identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

\_\_\_ 18. The requested records or information are records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

\_\_\_ 19. The requested records or information are records or information relating to a civil action in which the requesting party and the public body are parties.

\_\_\_ 20. The requested records or information are information or records that would disclose the social security number of an individual.

\_\_\_ 21. The requested records or information are records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies.

22. Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## NOTICE OF APPEAL RIGHTS

### **DENIAL OF A PUBLIC RECORD**

If your request has been denied above, in whole or in part, the City is required to advise you of your rights under Sections 5 and 10 or MFOIA, MCL 15.235 and 15.240. Under these sections, a person whose MFOIA request has been denied, in whole or part, has the right to do either or both of the following:

(1) Submit to the Mayor of the City of Dowagiac a written appeal that specifically states the word “appeal” and identifies your reason(s) for reversal of the disclosure denial set out in this Notice. Within 10 days after receiving the written appeal, the Mayor shall do one of the following: (a) reverse the disclosure denial; (b) issue a written notice to the requesting person upholding the disclosure denial; (c) reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(2) Seek judicial review in Cass County Circuit Court of the whole or partial denial of the request under section 10 of MFOIA. Under MFOIA Section 10, a requester has the right to commence a civil action in Circuit Court to compel the disclosure of the public records within 180 days after the City's final determination to deny a request. In an action commenced to compel disclosure, the Court may determine a public record is not exempt from disclosure and make an order to cease withholding or to produce all or a portion of a public record wrongfully withheld. If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced in Circuit Court, the Court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the Court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. If the Court determines that a refusal or delay in disclosing or providing copies of documents was arbitrary or capricious, the Court shall also award punitive damages in the amount of \$1000.00 to the person seeking the right to inspect or receive a copy of a public record.

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FIOA Coordinator Signature  
City of Dowagiac

**NOTICE OF APPEAL RIGHTS**

**EXCESSIVE FOIA PROCESSING FEE**

If you believe the fees charged by the City to process a FOIA request exceeds the amount permitted by state law, the City is required to advise you of your rights under 10A or MFOIA, MCL 15.240. Under these sections, a person whose MFOIA request exceeds the fees permitted under its publicly available procedures and guidelines has the right to do any of the following:

(1) Submit to the Mayor of the City of Dowagiac a written appeal that specifically states the word “appeal” and identifies how the required fee exceeds the amount permitted under the public body’s available procedures and guidelines. Within 10 business days after receiving the written appeal, the Mayor shall do one of the following: (a) Waive the fee; (b) reduce the fee and issue a written determination to the requesting person indicating the specific basis that supports the remaining fee, accompanied by a certification from the Mayor that the statements in the determination are accurate and that the reduced fee amount complies with the publicly available procedures and guidelines and Section 4 of the FOIA; (c) uphold the fee and issue a written determination to the requesting person indicating the specific basis under Section 4 that supports the required fee. The determination will include a certification from the Mayor that the statements in the determination are accurate and that the fee amount complies with the public body’s publicly available procedures and guidelines and Section 4. (d) Issue a notice extending for not more than 10 business days the period during which the Mayor must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The Mayor shall not issue more than 1 notice of extension for a particular written appeal.

(2) Commence a civil action in Cass County Circuit Court for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the City Manager/Mayor. If the court determines that the City required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible level. If the appellant in the civil action prevails by receiving a reduction of 50% or more of a total fee, the court may award all or appropriate amount of reasonable attorney fees, costs and disbursements. If the court determines that the City has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall also award the appellant punitive damages in the amount of \$500.

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FOIA Coordinator Signature  
City of Dowagiac

## AFFIDAVIT OF INDIGENCY

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### Personal History

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

\_\_\_\_\_ Age: \_\_\_\_\_

Marital Status:  Single  Married  Divorced  Separated  Widowed

Number of Dependents: \_\_\_\_\_ Ages of Dependent(s): \_\_\_\_\_

Student:  Yes  No  Full Time  Part Time

Name of Institution: \_\_\_\_\_

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### Employment History

Present Employer: \_\_\_\_\_ Date of Hire: \_\_\_\_\_

Address: \_\_\_\_\_ SSN: xxx-xx-\_\_\_\_\_

Most Recent Employer: \_\_\_\_\_ Last Day Worked: \_\_\_\_\_

Address: \_\_\_\_\_ Reason for Leaving: \_\_\_\_\_

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### Income

Monthly Income: \_\_\_\_\_

Spouses Monthly Income: \_\_\_\_\_

Alimony or Child Support: \_\_\_\_\_

Unemployment Compensation: \_\_\_\_\_

Worker's Compensation: \_\_\_\_\_

Public Assistance/SSI: \_\_\_\_\_

Other Income: \_\_\_\_\_

Total Monthly Income: \_\_\_\_\_

### Expenses (Monthly)

Monthly Rent or Mortgage: \_\_\_\_\_

Car Payment: \_\_\_\_\_

Utilities: \_\_\_\_\_

Groceries: \_\_\_\_\_

Installment Payments: \_\_\_\_\_

Insurance: \_\_\_\_\_

Other Expenses: \_\_\_\_\_

Total Monthly Expenses: \_\_\_\_\_

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