



City of Port Huron
Freedom of Information Act (FOIA)
Procedures and Guidelines
Effective July 1, 2015

A. Purpose

Act 442 of 1976, as amended, commonly known as the Freedom of Information Act (FOIA) requires the City of Port Huron to disseminate its public records in order to further the public policy of the State of Michigan that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees consistent with the FOIA.

B. Statement of Principles

The City's policy with respect to FOIA requests is to comply with state law in all respects and to respond to requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

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

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

The Port Huron City Council has established these procedures and guidelines to implement FOIA. A separate public summary of specific procedures and guidelines relevant to the general public has also been created. The summary explains how to submit written requests, how to understand the City's responses, deposit requirements, fee calculations and avenues for challenges and appeals.

C. Appointment of FOIA Coordinator

Appointment. The Port Huron City Council, in accordance with MCL §15.236, appoints the City Clerk as the FOIA Coordinator for the City of Port Huron. The City Clerk is authorized to designate other individuals to act on his or her behalf in accepting and processing requests. The name of the FOIA Coordinator and other designated individuals will be kept on file in the City Clerk's office.

Protection of records. The FOIA Coordinator is authorized to make reasonable rules regulating the manner in which records may be viewed to protect the City's records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal business operations of the City of Port Huron.

D. Public Records

Subject to disclosure. Public records are writings prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time of its creation. This includes more than paper copies, but also recordings, emails, photographs, audio/video records, other electronically stored information, etc.

Not required to create new record. The City is not required to create a new record, including any compilation, summary or report of information that does not already exist.

Exemptions. The City may exempt a record (or part of a record) from disclosure if it falls under one of the exemptions listed in MCL 15.243.

E. FOIA Requests

How to request. FOIA requests must be made in writing and describe the record(s) with enough particularity for the City to locate the record(s). No specific form is required; however, a form has been created and is available on the City's web site. Contact information should be provided so the City can contact the person to clarify a request if necessary.

Verbal requests. If a City employee receives a verbal request for information that, to the best of the employee's knowledge is available on the City's web site, the employee will inform the person of this and provide the web site address.

Submittal of requests. Written requests may be submitted in person, by mail, or through electronic means (e.g. email or fax) to the appropriate address or number shown below:

Non-Public Safety Records:

Email: clerk@porthuron.org

Mail: FOIA Coordinator
City of Port Huron
100 McMorrان Boulevard
Port Huron, MI 48060

Fax: 810-982-7872

Deliver: Use mail address shown above

Public Safety Records:

Email: foiapolice@porthuron.org

Mail: FOIA - Police/Fire/Public Safety
City of Port Huron
100 McMorrان Boulevard
Port Huron, MI 48060

Fax: 810-987-9860

Deliver: Use mail address shown above

Electronically transmitted requests. Requests received by fax, email or other electronic transmission are deemed to have been received on the following business day. Emails accidentally sent to a spam or junk mail folder are considered received one day after the City first becomes aware of the email request.

Retention. The FOIA Coordinator will keep a copy of all written FOIA requests on file for at least one year.

F. FOIA Responses

Generally. The City will respond within five business days after it receives a request by doing one of the following:

1. Grant the request.
2. Deny the request.
3. Grant the request in part and deny the request in part.
4. Issue a notice indicating the public record requested is available at no charge on the City's web site.
5. Issuing a notice stating a 10 business day extension is necessary to respond to the request. One extension notice is allowed for a particular request.

Redactions. If a record contains material that cannot be released as provided for in state law (exempt from disclosure), the City will separate the exempt from nonexempt material and provide the requestor with the nonexempt material.

Denials. If the City denies all or part of a FOIA request, a written notice will be issued that provides:

1. The reason under FOIA, or other statute, for the denial.
2. If no record exists, a statement that the record does not exist under the name given by the requestor or by another name reasonably known to the City.
3. If the City provides only part of a record, a general description of the material redacted, unless doing so would reveal the contents of the exempt information and thus defeat the purpose of the exemption.
4. An explanation of a requestor's further rights as provided for in MCL 15.235(d) and (e).

In lieu of a denial. If a request does not sufficiently describe a public record, the City may, in lieu of issuing a notice of denial indicate 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 provided under the FOIA.

Providing records electronically. A person may request that public records be provided on non-paper physical media storage devices or electronically mailed in lieu of paper copies. The City will comply with the request if it possesses the necessary technological capability to do so in the format requested.

G. FOIA Fees

General. If a FOIA request is granted in full or in part, the City can charge a fee to fulfill the request prior to releasing the public records. No fees will be collected for a request totaling \$3.00 or less. Fees will be uniform and not dependent upon the identity of the requesting person. The City may also require a 50% good-faith deposit if an estimated fee exceeds \$50.00. When charging a fee or requiring a deposit, the City will provide the requestor with a detailed itemization of the charges using a standard FOIA invoice form.

Allowable fees. The following fee guidelines for calculating labor and material costs incurred in fulfilling FOIA requests are pursuant to MCL 15.234(3):

1. Labor costs for the search, location and examination and redaction of public records. The City will charge not more than the hourly wage of its lowest-paid employee capable of performing these tasks and will apply up to a 50% fringe benefit multiplier if failure to charge a fee will result in unreasonably high costs to the City. The hourly wage will be based on the City's payroll records for the applicable fiscal year. The City will calculate these labor costs using time increments of 15 minutes or more, with all partial time increments rounded down. The City will not charge labor costs for redacting exempt material if the City previously redacted the record and the redacted version is still in the City's possession.
2. Labor costs for copying or printing records and for transferring records to an electronic format. The City will charge not more than the hourly wage of its lowest-paid employee capable of performing these tasks and will apply up to a 50% fringe benefit multiplier. The hourly wage will be based on the City's payroll records for the applicable fiscal year. The City will calculate these labor costs using time increments of 15 minutes or more, with all partial time increments rounded down.
3. Overtime. Overtime wages will not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and City administration approves such overtime.
4. Paper copies. Paper copies of records will not exceed \$.10 per page for standard letter or legal size paper. Copies for other paper types will reflect actual costs of reproduction. The City will use the most economical means available for making paper copies, including using double-sided printing when possible.
5. Non-paper physical media storage devices. Requests to provide public records on non-paper physical media storage devices will be calculated using the actual and most reasonably economical cost for the City to acquire the device. Record transferring to storage devices provided by a requestor is prohibited unless the City agrees to accept a device that is found to be in its original, unopened packaging.
6. Mailing costs. Actual costs of mailing using a reasonably economical and justifiable manner will be charged. The City will not charge for expedited shipping or insurance unless the requestor specifically requests for this in writing.

Record already on web site. If the City knows that a requested record is available on its web site, a written response notifying the requestor of this fact will be provided, along with the web site address. The City will not charge any fees for this, but will indicate in its response what the fee would be if the requester wants a copy either printed or in an electronic format. The City will provide a copy of the record upon request and for a fee, which may include a fringe benefit greater than the 50% limitation, but will not exceed the actual fringe benefit cost.

Fee reduction for late response. The City will reduce labor costs by 5% for each day it is late in responding, with a maximum 50% reduction, if (1) the late response was willful or intentional; (2) the written request conveyed a request for information in the first 250 words of the body of the letter/email; or (3) the written request had the words "freedom of information," "information," "FOIA," "copy" or referenced the state statute. The City will indicate the reduction in an invoice to the requestor, using the City's standard FOIA invoice form.

Effect of non-payment. If (1) an individual does not fully pay for records that the City made available on time, subject to payment; (2) ninety (90) days have passed since the City notified the individual in writing that the records were available; (3) the City provided an estimate for the request; and (4) the final fee did not exceed 105% of the estimated fee, then for the next 365 days after the first request was made, the City may require a 100% estimated fee deposit before it commences to fulfill another request from that individual. The City will no longer require a 100% estimated fee deposit if it is subsequently paid in full for the first request.

Fee Waivers. The City may provide records without charge, or at a reduced charge, if it determines that doing so is in the public interest. The City will also waive the first \$20.00 of a fee if:

1. An individual who is entitled to information under this act submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. The City will note the \$20 discount on the FOIA response invoice. If a requestor is ineligible for the discount, the City will explain to the requestor the reason for ineligibility in its written response. A requestor is ineligible if: (1) the City has already provided the requestor with discounted copies of public records twice during that calendar year; or (2) the request is made in conjunction with outside parties who are offering or providing payment to the individual to make the request. The City may require the requestor to provide an affidavit stating that the request is not being made in conjunction with outside parties in exchange for payment.
2. The requestor is a nonprofit organization formally designated by the state to carry out activities under subtitle C of the developmental disabilities assistance and Bill of Rights Act of 2000, Public Law 106-402, and the protection and advocacy for individuals with Mental Illness Act, Public Law 99-319, or their successors, if the request meets all of the following: (1) is made directly on behalf of the organization or its clients; (2) is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and (3) is accompanied by documentation of its designation by the state, if requested by the City.

H. Deposit Requirements

Good-faith deposit. If the City estimates a fee to process a FOIA request will be greater than \$50.00, the City will require a good-faith deposit from the requestor before the request is processed. The deposit shall not exceed ½ of the total estimated fee.

Best efforts time estimate to fulfill request. The City will also provide a best efforts estimate regarding the time frame after a deposit is received that it will take the City to fulfill the request. The time frame estimate is not binding upon the City, but the City will provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on the State of Michigan's public policy under Section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance.

I. FOIA Appeals

Appeal of FOIA denial. If the City denies all or part of a request, the requestor may submit a written appeal to the City of Port Huron City Manager (“City Manager”) or commence a civil action as follows:

1. For appeals to the City Manager, the requestor shall submit a written appeal that specifically states the word "appeal" and identifies the reason(s) for reversal. Within 10 business days after receiving the appeal, the City Manager will do one of the following: (1) reverse the denial; (2) uphold the denial; (3) reverse the denial in part and uphold the denial in part; or (4) under unusual circumstances, issue a notice extending up to 10 business days the period during which the City Manager will decide the written appeal. The City Manager will not issue more than one extension per appeal.
2. A requestor may appeal the City Manager’s decision by commencing a civil action in St. Clair County Circuit Court pursuant to the Freedom of Information Act (Act 442 of 1976, as amended).

Appeal of FOIA fee. The amount charged for a FOIA fee may be appealed to the City Manager as follows:

1. The requestor shall submit 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 or FOIA. Within 10 business days after receiving the appeal, the City Manager will do one of the following: (1) waive the fee; (2) reduce the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the remaining fee; the determination will include a certification that the statements in the determination are accurate and that the reduced fee amount complies with these procedures and guidelines and FOIA; (3) uphold the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the fee; the determination will include a certification that the statements in the determination are accurate and that the fee amount complies with these procedures and guidelines and FOIA; or (4) issue a notice extending up to 10 business days the period during which the City Manager must respond to the written appeal. The City Manager will not issue more than one extension per appeal.
2. A requester may appeal a City Manager’s decision by commencing a civil action in St. Clair County Circuit Court pursuant to the Freedom of Information Act (Act 442 of 1976, as amended). A requestor may not commence a civil action regarding a FOIA fee unless he or she first appealed the fee to the City Manager.

J. Miscellaneous

Conflicts. To the extent that any provision of this policy and procedure conflicts with any State statute, the applicable statute shall control.

FOIA procedures and guidelines and public summary. A web site link to a copy of these documents will be provided in all written responses to requests for public records.

FOIA REQUEST - INVOICE

FOIA Coordinator authorized to revise invoice as necessary

If payment is required as indicated in the accompanying letter, requested records will not be released until the payment described below is received. Please call the City of Port Huron FOIA contact person indicated in the accompanying letter, or return this form if you decide that you do not wish to receive the records. After 90 days, it will be assumed that you no longer require or want the requested items

A copy of the City of Port Huron's Procedures and Guidelines and written Public Summary can be found at <http://www.porthuron.org/foia>.

REQUESTOR'S NAME/ADDRESS: _____ DATE: _____

BILL CHARGES ITEMIZED	Amount
LABOR COSTS (charged in 15-minute increments, rounded down): 1. Search for, locate and review material: <i>The below fees are being charged because failure to do so will result in unreasonably high costs to the City because of the nature of the request in this particular instance, specifically: _____</i> No. of hours: _____ x Wage Rate (including ____% fringes): _____ = \$ _____ - 2. Redaction (separate exempt from non-exempt information): <i>The below fees are being charged because failure to do so will result in unreasonably high costs to the City because of the nature of the request in this particular instance, specifically: _____</i> No. of hours: _____ x Wage Rate (including ____% fringes): _____ = \$ _____ -	\$ -
COPYING/DUPLICATING (labor charged in 15-minute increments, rounded down): 1. Labor costs: No. of hours: _____ x Wage Rate (including ____% fringes): _____ = \$ _____ - 2. Paper (legal or letter): No. of pages: _____ x Cost per page: _____ = \$ _____ - 3. Other paper types: No. of pages: _____ x Cost per page: _____ = \$ _____ -	\$ -
OTHER COSTS: (Describe, such as overtime, cost of compact discs/audio tapes/other digital media, etc.)	\$ -
MAILING COSTS (Actual costs for postage, envelope, label, etc.):	
REDUCTIONS: (Describe, such as discount for indigency, certain nonprofits)	
PAYMENT TOTAL -- return copy of invoice and payment to: FOIA Coordinator City of Port Huron 100 McMorran Blvd. Port Huron, MI 48060 Make check/money orders payable to the <u>City of Port Huron</u>	TOTAL \$ -
LATE RESPONSES: If the City does not respond in a timely manner as required under MCL 15.235(2), the City must reduce the labor cost charges otherwise permitted by 5% for each day the City exceeds the time permitted for response to a request, with a maximum of 50% reduction.	
*DEPOSIT: PLEASE NOTE A DEPOSIT MAY BE REQUESTED BECAUSE THE TOTAL IS GREATER THAN \$50.00. THE TOTAL LISTED IS ONLY AN ESTIMATE OF THE COST OF COMPLYING WITH YOUR REQUEST. THE ACTUAL COST MAY VARY FROM THIS AMOUNT. A DEPOSIT MAY BE ALSO BE REQUIRED IF PREVIOUS FOIA FEES WERE NOT PAID IN FULL.	\$ -
*BALANCE TO BE PAID	

*Request will be processed but balance must be paid before copies may be picked up, delivered, or mailed.

Additional cost to provide public records in PAPER FORM that are available online:

As stated in our accompanying response, a part or all of the records requested are available online for no charge. There is an additional cost for providing these records. If you wish to have the City print & mail copies of these records, please include payment for these records. The requested material can be found at: _____ \$ _____

For Internal Use Only

Date payment received: _____ Date records mailed: _____ Date records picked up: _____