

CITY OF BELDING

FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

Preamble: Statement of Principles

It is the policy of the City of Belding that all persons, except those who are serving a sentence of imprisonment, consistent with the Michigan Freedom of Information Act (FOIA), 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. The people shall be informed so that they fully participate in the democratic process.

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

The City of Belding acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The City of Belding 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 Belding will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The City of Belding's policy is to disclose public records consistent with and in compliance with State law.

Section 1: General Policies

The City Council acting pursuant to the authority at MCL 15.236 designates the City Clerk 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 request.

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 are 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 the City of Belding 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 at city hall or on the city website at www.belding.us

Written request for public records may be submitted in person or by mail to the FOIA Coordinator. Requests may also be submitted electronically, by facsimile and e-mail.

A person may request that public records be provided on non-paper physical media, electronically mailed or otherwise proved 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 Belding 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 the 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 Belding City Council or seek judicial review in the Ionia County Circuit Court; and
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well as 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 the 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 which 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.
- 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 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 or publication, not including labor, or 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. If using contract or outside labor to separate and delete exempt material from non-exempt material, the public body must clearly note the name of person or firm who does the work and the total labor cost may not exceed an amount 6 times the state minimum hourly wage.
- 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 (8-1/2 X 11) or on legal (8-1/2 x 14) sized paper will not exceed \$.10 per sheet of paper. Copies of 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:
 1. The late response was willful and intentional.
 2. 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
 3. 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 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 a 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 head of the public body, the Belding City Council. The head of the public body is not considered to have received a written appeal of either a denial or a fee amount until its first regularly scheduled meeting following the submission of the appeal. It then has 10 business days to respond to the appeal. 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 head of the public body 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 head of the public body 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 head of the public body, he or she may file a civil action in Ionia 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 attorney’s fees, costs 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 amount of \$1,000. Court shall also order that the public body pay a civil fine of \$1,000 to the general fund of the State treasury.

Section 8: Appeal of an Excessive FOIA Processing Fee

If a requestor believes that the fee charged by the City to process a FOIA request exceeds the amount permitted by state law, he or she must first submit a written appeal for a fee reduction to

the head of the public body, the Belding City Council. 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 head of the public body will respond in writing by:

- waive the fee;
- reduce the fee and issue a written determination indicating the specific basis that supports the remaining fee, accompanied by a certification that the statements in the determination are accurate and the reduced fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA;
- uphold the fee and issue a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee, accompanied by a certification that the statements in the determination are accurate and the fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA; or
- issue a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the head of the public body will respond to the written appeal.

Within 45 days after receiving notice of the head of the public body’s determination of a fee appeal, a requestor may commence a civil action in Ionia County Circuit Court for a fee reduction. If a civil action is filed appealing the fee, the City is not obligated to process the request for the public record until the Court resolves the fee dispute.

If the court determines that the City required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible amount. If the appellant in the civil action prevails 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 City has acted arbitrarily and capriciously by charging an excessive fee, the court shall also award the appellant punitive damages in the amount of \$500.

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: Penalty for Violation of the Act

If the court determines in either an appeal of a denial of a public record, or the appeal of an excessive fee, that the public body willfully and intentionally failed to comply with the FOIA or otherwise acted in bad faith, then in addition to any other award or sanction, the court shall impose a civil fine of not less than \$2500 or more than \$7500 for each occurrence.

The court is required to consider the budget of the public body and whether the public body has been previously been assigned penalties for violations of the FOIA.

The civil fine is to be deposited to the general fund of the State treasury.

Section 11: Appendix of City of Belding FOIA Forms

- Request for Public Records Form
- Notice to Extend Response Time for FOIA Request
- Notice of Denial of FOIA Request
- Affidavit of Public Assistance/Indigency
- Detailed Cost Itemization Form
- FOIA Appeal Form – To Appeal a Denial of Records
- FOIA Appeal Form – To Appeal an Excess Fee
- Inspection of Records

CITY OF BELDING

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 City's FOIA Procedures and Guidelines relevant to the general public.

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

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City of Belding must be submitted in writing.
- A request must sufficiently describe a public record to as to enable the City to find it.
- 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.belding.us
- Written requests can be made in person by delivery to the city hall or by mail.
- Requests can also be made by facsimile by calling 616-794-0091.
- A request may also be submitted by e-mail. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line and be sent to kthomas@ci.belding.mi.us

Note: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for a public record.

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

- Within 5 business days of receipt of a FOIA request the City 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 City will respond to your request in one of the following ways:
 1. Grant the request.
 2. Issue a written notice denying the request
 3. Grant the request in part and issue a written notice denying in part the request.
 4. Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond.
 5. 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 City 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 City will require a deposit before processing the request.

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

- If the City has made a good faith calculation that the total fee for processing the request exceeds \$50.00, the City will require that you provide a deposit in the amount of 50% of the total estimated fee. When the City requests the deposit it will provide you a non-binding best efforts estimate of how long it will take to process the request following receipt by the City of your deposit.
- If the City receives a request from a person who has not paid the City for copies of public records made in fulfillment of a previously granted request, the City 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:

1. the final fee for the prior written request is not more than 105% of the estimated fee;
 2. the public records made available contained the information sought in the prior written request and remain in the City's possession;
 3. the public records were made available to the individual, subject to payment, within the time frame estimated by the City to provide the records;
 4. 90 days have passed since the City notified the individual in writing that the public records were available for pickup or mailing;
 5. the individual is unable to show proof of prior payment to the City; and
 6. the City has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The City will not require the 100% estimated fee deposit if any of the following apply:
 1. the person making the request is able to show proof of prior payment in full to the City;
 2. the city is subsequently paid in full for all applicable prior written requests; or
 3. 365 days have passed since the person made the request for which full payment was not remitted to the City.

4. How does the City calculate FOIA processing 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 Michigan FOIA statute permits the City to assess and collect a fee for six designated processing components. The City may charge for the following costs associated with processing a request:
 1. Labor costs associated with searching for, locating and examining a requested public record.
 2. Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
 3. The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media.
 4. The cost of duplication or publication, not including labor, of paper copies of public records.
 5. Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
 6. The cost to mail or send a public record to a requestor
- The above components are all identified on the fee itemization form that will be provided with each FOIA response for which the City intends to charge a fee. The fee itemization contains additional details regarding what types of costs may be charged and how they will be calculated. A copy of that form is found at www.belding.us.

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

- The City may waive or reduce the fee associated with a request when City determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public.

- The City will waive the first \$20.00 of the processing fee for a request if you submit an affidavit stating that you are:
 1. indigent and receiving specific public assistance; or
 2. if not receiving public assistance, stating facts demonstrating an inability to pay because of indigency

- You are not eligible to receive the \$20.00 waiver if you:
 1. have previously received discounted copies of public records from the City twice during the calendar year; or
 2. are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

- An affidavit is a sworn statement. For your convenience the City has provided an Affidavit of Indigency form for the waiver of FOIA fees on its website.

- The City will waive the fee for a nonprofit organization which meets all of the following conditions:
 1. the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
 2. the request is made directly on behalf of the organization or its clients;
 3. the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
 4. the request is accompanied by documentation of the organization's 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 head of the public body, the Belding City Council. 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.

Within 10 business days of receiving the appeal the head of the public body will respond in writing by:

1. reversing the disclosure denial;
2. upholding the disclosure denial; or
3. reverse the disclosure denial in part and uphold the disclosure denial in part.

Whether or not you submitted an appeal of a denial to the head of the public body, you may file a civil action with the Ionia 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 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.

- Appeal of an Excessive FOIA Processing Fee

If you believe that the fee charged by the City to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a fee reduction to the head of the public body, the Belding City Council. 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 head of the public body will respond in writing by:

1. waiving the fee;
2. reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
3. upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
4. issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the head of the public body will respond to the written appeal.

Within 45 days after receiving notice of the head of the public body's determination of the processing fee appeal, you may commence a civil action in Ionia 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.

Need more details or information?

This is only a summary of the City of Belding's FOIA Procedures and Guidelines. For more details and information, copies of the City of Belding's FOIA Procedures and Guidelines are available at no charge from City Hall and on the City's website, www.belding.us.



Affidavit of Public Assistance/Indigency

Freedom of Information Act

Submit this affidavit if you are seeking a waiver or reduction of costs due to public assistance/indigency. If you are preparing this affidavit for another person, please also fill out the attached Designated Requestor form.

Please submit to: City of Belding Clerk's Office
120 S. Pleasant St.
Belding, MI 48809
Tel: (616) 794-1900, Ext. 210
Fax: (616) 794-0091
kthomas@ci.belding.mi.us

Under Michigan Law, MCL 15.234, the first \$20.00 of a fee charged for a public record search and copies shall be waived if the person requesting the information is on public assistance or otherwise indigent.

AFFIDAVIT

Date of Request _____ Name _____

Address _____
Street City State Zip

Telephone (optional) _____ Email (optional) _____

I request a waiver of the first \$20.00 of fees under the Michigan FOIA for the following reason(s):

I am currently receiving public assistance Type of Assistance _____

I am unable to pay the fee because of indigency, based on the following facts:

Income: _____
Employer name and address _____

_____ per _____
Length of present employment Average annual gross pay Average net pay week/month

Assets: State the value of all real property, vehicles, bank deposits, bonds, stocks, or other assets owned by you; use the back of this form, if necessary.

Other Facts: State any other facts showing indigency; use the back of this form, if necessary.

Signature

Sworn or affirmed before me on _____,

_____, Notary Public

County, State of Michigan

Commission Expires: _____

Acting in the County of _____

Affidavit of Public Assistance/Indigency

Designated Requester Form

Complete this form only if you are preparing an Affidavit of Public Assistance/Indigency for someone other than yourself.

1. I have personal knowledge of the facts appearing in this affidavit.
2. The person on whose behalf this affidavit is filed is unable to sign it because he/she is:

Under 18 _____
Please provide the person's date of birth

Other _____
(Please describe.)

Please describe your relationship to person on whose behalf the affidavit is filed: _____

Your name (type or print) _____

Address _____
Street City State Zip

Telephone _____ Email _____

Signature Date _____

Sworn or affirmed before me on _____,

_____, Notary Public

County, State of Michigan

Commission Expires: _____

Acting in the County of _____

City: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

City of Belding, Michigan
120 S. Pleasant Street
Belding, MI 48809
Phone: 616-794-1900, Ext. 210

Request Form
Note: Requestors are not required to use this form. The city may complete one for recordkeeping if not used.

FOIA Request for Public Records
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ **Date Received:** _____ **Check if received via:** Email Fax Other Electronic Method

Date delivered to junk/spam folder: _____

(Please Print or Type)

Date discovered in junk/spam folder: _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis

Delivery Method: Will pick up Mail to address above Email to address above

Deliver on digital media provided by the city: _____

Note: *The city is not required to provide records in a digital format or on digital media if the city does not already have the technological capability to do so.*

Describe the public record(s) as specifically as possible. You may use this form or attach additional sheets:

Consent to Non-Statutory Extension of City's Response Time

I have requested a copy of records or a subscription to records or the opportunity to inspect records, pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, *et seq.* I understand that the city must respond to this request within five (5) business days after receiving it, and that response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the city's response time for this request until: _____ (*month, day, year*).

Requestor's Signature	Date
------------------------------	-------------

Records Located on Website

If the city directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any labor charges to redact (*separate exempt information from non-exempt information*).

If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the city must notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed cost itemization form, the city must separate the requested public records that are available on its website from those that are not available on the website and must inform the requestor of the additional charge to receive copies of the public records that are available on its website.

If the city has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form, including digital media, the city must provide the public records in the specified format (if the city has the technological capability) but may use a fringe benefit multiplier greater than the 50%, not to exceed the actual costs of providing the information in the specified format.

Request for Copies/Duplication of Records on City Website

I hereby stipulate that, even if some or all of the records are located on a city website, I am requesting that the city make copies of those records on the website and deliver them to me in the format I have requested above. I understand that some FOIA fees may apply.

Requestor's Signature

Date

Overtime Labor Costs

Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.

Consent to Overtime Labor Costs

I hereby agree and stipulate to the city using overtime wages in calculating the following labor costs as itemized in the following categories:

- 1. " Labor to copy/duplicate 2. " Labor to locate 3a. " Labor to redact 3b. " Contract labor to redact
- 6b. " Labor to copy/duplicate records already on city's website

Requestor's Signature

Date

Request for Discount: Indigence

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by an individual who is entitled to information under this act and who:

- 1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, **OR**
- 2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if **ANY** of the following apply:

- (i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year,
- (ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

Office Use: " Affidavit Received " Eligible for Discount " Ineligible for Discount

I am submitting an affidavit and requesting that I receive the discount for indigence for this FOIA request:

Date:

Requestor's Signature:

Request for Discount: Nonprofit Organization

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by 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 and the Protection and Advocacy for Individuals with Mental Illness Act, if the request meets **ALL** of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
- (ii) 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.
- (iii) Is accompanied by documentation of its designation by the state, if requested by the county.

Office Use: " Documentation of State Designation Received " Eligible for Discount " Ineligible for Discount

I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its clients and 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:

Date:

Requestor's Signature:

(Created by Michigan Townships Association, April 2015, revised for use by City of Belding, June, 2015)

City: Keep original and provide copy, along with Public Summary, to requestor at no charge.

City of Belding, Michigan
120 S. Pleasant Street
Belding, MI 48809
Phone: 616-794-1900, Ext. 210

Extension Form

Notice to Extend Response Time for FOIA Request
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ **Date Received:** _____ **Check if received via:** Email Fax Other Electronic Method
Date of This Notice: _____ **Date delivered to junk/spam folder:** _____
(Please Print or Type) **Date discovered in junk/spam folder:** _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis
Delivery Method: Will pick up Mail to address above Email to address above
 Deliver on digital media provided by the city: _____

Record(s) You Requested: (Listed here or see attached copy of original request) _____

We are extending the date to respond to your FOIA request for no more than 10 business days, until _____ (month, day, year).
Only one extension may be taken per FOIA request. If you have any questions regarding this extension, contact _____ at _____

Estimated Time Frame to Provide Records: _____ (days or date)
The time frame estimate is nonbinding upon the city, but the city is providing the estimate in good faith. Providing an estimated time frame does not relieve a public body from any of the other requirements of this act.

Reason for Extension:

- 1. The city needs to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to your request. Specifically, the city must:

- 2. The city needs to collect the requested public records from numerous offices, facilities, or other establishments that are located apart from the city office. Specifically, the city must coordinate documents from the following locations:

- 3. Other (describe): _____

Signature of FOIA Coordinator: _____	Date: _____
---	--------------------

City: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

City of Belding, Michigan
120 S. Pleasant Street
Belding, MI 48809
Phone: 616-794-1900, Ext. 210

Denial Form

Notice of Denial of FOIA Request
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ **Date Received:** _____ **Check if received via:** Email Fax Other Electronic Method
Date of This Notice: _____ **Date delivered to junk/spam folder:** _____
(Please Print or Type) **Date discovered in junk/spam folder:** _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis

Delivery Method: Will pick up Mail to address above Email to address above
 Deliver on digital media provided by the city: _____

Record(s) You Requested: *(Listed here or see attached copy of original request)* _____

All **OR** **Part** of your request for records has been denied. Please refer to this form for an explanation. If you have any questions regarding this denial, contact _____ at _____

Reason for Denial:

1. Exempt from Disclosure: This item is exempt from disclosure under FOIA Section 13, Subsection _____ *(insert number)*, because: _____

2. Record Does Not Exist: This item does not exist under the name provided in your request or by another name reasonably known to the city. A certificate that the public record does not exist under the name given is attached. If you believe this record does exist, provide a description that will enable us to locate the record: _____

3. Redaction: A portion of the requested record had to be separated or deleted (redacted) as it is exempt under FOIA Section 13, Subsection _____ *(insert number)*, because: _____

A brief description of the information that had to be separated or deleted: _____

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the head of the public body or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the city has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. *(See back of this form for additional information on your rights.)*

Signature of FOIA Coordinator: _____

Date: _____

FREEDOM OF INFORMATION ACT (EXCERPT)
Act 442 of 1976

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

- (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:
- (a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.
 - (b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.
- (2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 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.
 - (d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.
- (3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)
- (a) If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).
- (4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.
- (5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.
- (6) 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 under this section, 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. The award shall be assessed against the public body liable for damages under subsection (7).
- (7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015

City: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

City of Belding, Michigan
120 S. Pleasant Street
Belding, MI 48809
Phone: 616-794-1900, Ext. 210

Denial Appeal Form

FOIA Appeal Form—To Appeal a Denial of Records

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ **Date Received:** _____ **Check if received via:** Email Fax Other Electronic Method
Date of This Notice: _____ **Date delivered to junk/spam folder:** _____
(Please Print or Type) **Date discovered in junk/spam folder:** _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis
Delivery Method: Will pick up Mail to address above Email to address above
 Deliver on digital media provided by the city: _____

Record(s) You Requested: *(Listed here or see attached copy of original request)* _____

Reason(s) for Appeal:

The appeal must identify the reason(s) for the denial. You may use this form or attach additional sheets:

Requestor's Signature: _____ **Date:** _____

City Response:

The city must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

City Extension: We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until _____
(month, day, year). Only one extension may be taken per FOIA appeal.
Unusual circumstances warranting extension: _____

If you have any questions regarding this extension, contact: _____

City Determination:

Denial Reversed Denial Upheld Denial Reversed in Part and Upheld in Part

The following previously denied records will be released: _____

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the head of the public body or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the city has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. *(See back of this form for additional information on your rights.)*

Signature of FOIA Coordinator: _____

Date: _____

(Created by Michigan Townships Association, April 2015, revised for use by the City of Belding, June, 2015)

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 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.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)

(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) 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 under this section, 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. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015.

City: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

City of Belding, Michigan
120 S. Pleasant Street
Belding, MI 48809
Phone: 616-794-1900, Ext. 210

Fee Appeal Form

FOIA Appeal Form—To Appeal an Excess Fee
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ **Date Received:** _____ **Check if received via:** Email Fax Other Electronic Method
Date of This Notice: _____ **Date delivered to junk/spam folder:** _____
(Please Print or Type) **Date discovered in junk/spam folder:** _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis

Delivery Method: Will pick up Mail to address above Email to address above

Deliver on digital media provided by the city: _____

Record(s) You Requested: *(Listed here or see attached copy of original request)* _____

Reason(s) for Appeal:

The appeal must specifically identify how the required fee(s) exceed the amount permitted. You may use this form or attach additional sheets:

Requestor's Signature: _____ **Date:** _____

City Response:

The city must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

City Extension: We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until _____ (month, day, year). Only one extension may be taken per FOIA appeal.

Unusual circumstances warranting extension: _____

If you have any questions regarding this extension, contact: _____

City Determination: Fee Waived Fee Reduced Fee Upheld

Written basis for county determination: _____

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10a of the Michigan Freedom of Information Act, MCL 15.240a, to appeal a FOIA fee that you believe exceeds the amount permitted under the city's written Procedures and Guidelines to the head of the public body or to commence an action in the Circuit Court for a fee reduction within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of the public body. If a civil action is commenced in court, the city is not obligated to complete processing the request until the court resolves the fee dispute. If the court determines that the city required a fee that exceeded the permitted amount, the court shall reduce the fee to a permissible amount. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: _____

Date: _____

(Created by Michigan Townships Association, April 2015, revised for use by the City of Belding, June, 2015)

FREEDOM OF INFORMATION ACT (EXCERPT)
Act 442 of 1976

15.240a.added Fee in excess of amount permitted under procedures and guidelines or MCL 15.234.
 Sec. 10a.

(1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body 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 public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, 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 head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(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 shall include a certification from the head of the public body 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 head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

History: Add. 2014, Act 563, Eff. July 1, 2015

City: Keep original and provide copies of both sides of each sheet, along with Public Summary, to requestor at no charge.

City of Belding, Ionia County
 120 S. Pleasant Street
 Belding, Michigan 48809
 Phone: 616-794-1900, Ext. 210

Date: _____ Prepared for Request No.: _____ Date Request Received: _____

<p>The following costs are being charged in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the city's FOIA Policies and Guidelines.</p>			
<p>1. Labor Cost for Copying / Duplication</p> <p>This is the cost of labor directly associated with duplication of publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the Internet or other electronic means as stipulated by the requestor.</p> <p>This shall not be more than the hourly wage of the city's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments as set by the city council; all partial time increments must be rounded down. <i>If the number of minutes is less than one increment, there is no charge.</i></p> <p>Hourly Wage Charged: \$ _____ Charge per increment: _____ \$ _____ OR _____</p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____ OR _____ Multiply the hourly wage by the percentage multiplier: _____ % <i>(up to 50% of the hourly wage)</i> and add to the hourly wage for a total per hour rate. \$ _____ Charge per increment: _____</p> <p>Overtime rate charged as stipulated by Requestor <i>(overtime is not used to calculate the fringe benefit cost)</i></p>		<p>To figure the number of increments, take the <i>number of minutes</i>: _____, divide by _____-minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>1. Labor Cost</p> <p>\$ _____</p>

2. Labor Cost to Locate:

This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. **This fee is being charged because failure to do so will result in unreasonably high costs to the city that are excessive and beyond the normal or usual amount for those services compared to the city's usual FOIA requests, because of the nature of the request in this particular instance, specifically:** _____

The city will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in 15 minute time increments; all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____
\$ _____

Charge per increment:

OR

Hourly Wage with Fringe Benefit Cost: \$ _____
Multiply the hourly wage by the percentage multiplier: _____ %
(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.
\$ _____

OR

Charge per increment:

Overtime rate charged as stipulated by Requestor (*overtime is not used to calculate the fringe benefit cost*)

To figure the number of increments, take the number of minutes: _____, divide by _____-minute increments, and round down.
Enter below:

Number of increments

2. Labor Cost

x _____ = \$ _____

3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a city employee. If contracted, use No. 3b instead).

The city will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the city that are excessive and beyond the normal or usual amount for those services compared to the city's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____

This is the cost of labor of a city employee, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the city's lowest-paid employee capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in 15 minute increments; all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____

Charge per increment: \$ _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____

OR

Multiply the hourly wage by the percentage multiplier: _____%
(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.

Charge per increment: \$ _____

Overtime rate charged as stipulated by Requestor (*overtime is not used to calculate the fringe benefit cost*)

To figure the number of increments, take the number of minutes: _____, divide by _____-minute increments, and round down. Enter below:

Number of increments

3a. Labor Cost

x _____ = \$ _____

3b. Contracted Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a instead.)

The city will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the city that are excessive and beyond the normal or usual amount for those services compared to the city's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____

As this city does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a **contractor** (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to 6 times the state minimum hourly wage rate of _____ (currently \$8.15).

Name of contracted person or firm: _____

These costs will be estimated and charged in 15 minute time increments, all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Cost Charged: \$ _____ **Charge per increment: \$** _____

To figure the number of increments, take the number of minutes: _____, divide by _____-minute increments, and round down to: _____ increments. Enter below:

Number of increments
 x _____ = **\$** _____

3b. Labor Cost

4. Copying / Duplication Cost:

Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection).

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- **Letter** (8 1/2 x 11-inch, single and double-sided): _____ cents per sheet
- **Legal** (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- **Other paper sizes** (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- **Circle applicable:** Disc / Tape / Drive / Other Digital Medium **Cost per Item:** _____

The cost of paper copies **must** be calculated as a total cost per sheet of paper. The fee **cannot exceed** 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. A city must utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

Number of Sheets:
 x _____ = **\$** _____
 x _____ = **\$** _____

Costs:

x _____ = **\$** _____

No. of Items:
 x _____ = **\$** _____

4. Total Copy Cost
\$ _____

5. Mailing Cost:

The city will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The city **may** charge for the least expensive form of postal delivery confirmation.
- The city **cannot** charge more for expedited shipping or insurance unless specifically requested by the requestor.*

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp
 \$ _____ per pound
 \$ _____ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

* Requestor has requested expedited shipping or insurance

Number of Envelopes or Packages:

Costs:

x _____ = \$ _____
 x _____ = \$ _____
 x _____ = \$ _____
 x _____ = \$ _____
 x _____ = \$ _____
 x _____ = \$ _____

5. Total Mailing Cost
 \$ _____

6a. Copying/Duplicating Cost for Records Already on City's Website:

If the public body has included the website address for a record in its written response to the requestor, and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or non-paper physical digital media, the city will provide the public records in the specified format and may charge copying costs to provide those copies.

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 ½ x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 ½ x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- **Circle applicable:** Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

Requestor has stipulated that some / all of the requested records that are already available on the city's website be provided in a paper or non-paper physical digital medium.

Number of Sheets:

Costs:

x _____ = \$ _____
 x _____ = \$ _____
 x _____ = \$ _____

No. of Items:

x _____ = \$ _____

6a. Web Copy Cost
 \$ _____

6b. Labor Cost for Copying/Duplicating Records Already on City's Website:

This shall not be more than the hourly wage of the city's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in 15 minute time increments; all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____
\$ _____

Charge per increment: _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____
Multiply the hourly wage by the percentage multiplier: _____ %
and add to the hourly wage for a total per hour rate.
\$ _____

OR

Charge per increment: _____

The city may use a fringe benefit multiplier greater than the 50% limitation, not to exceed the actual costs of providing the information in the specified format.

Overtime rate charged as stipulated by Requestor

To figure the number of increments, take the number of minutes: _____, divide by _____ -minute increments, and round down.
Enter below:

Number of increments _____
6b. Web Labor Cost
x _____ = \$ _____

6c. Mailing Cost for Records Already on City's Website:

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp / per pound / per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

* Requestor has requested expedited shipping or insurance

Number: _____
Costs:
x _____ = \$ _____
x _____ = \$ _____
x _____ = \$ _____
x _____ = \$ _____

6c. Web Mailing Cost
\$ _____

Subtotal Fees Before Waivers, Discounts or Deposits:
Copying:

1. Labor Cost for \$ _____
2. Labor Cost to Locate: \$ _____
3a. Labor Cost to Redact: \$ _____
3b. Contract Labor Cost to Redact: \$ _____
4. Copying/Duplication Cost: \$ _____
5. Mailing Cost: \$ _____
6a. Copying/Duplication of Records on Website: \$ _____
6b. Labor Cost for Copying Records on Website: \$ _____
6c. Mailing Costs for Records on Website: \$ _____
Subtotal \$ _____

Fees:

Waiver: Public Interest

A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the city determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

% All fees are waived OR All fees are reduced by: _____

Subtotal Fees After Waiver: \$ _____

<p>Discount: Indigence A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this act and who:</p> <p>1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, OR</p> <p>2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.</p> <p>If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if ANY of the following apply:</p> <p>(i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year, OR</p> <p>(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.</p> <p style="text-align: right;">Eligible for Indigence Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p>Discount: Nonprofit Organization A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally 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 federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets ALL of the following requirements:</p> <p>(i) Is made directly on behalf of the organization or its clients.</p> <p>(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.</p> <p>(iii) Is accompanied by documentation of its designation by the state, if requested by the township.</p> <p style="text-align: right;">Eligible for Nonprofit Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p>Deposit: Good Faith The city may require a good-faith deposit in <u>either its initial response or a subsequent response before providing the public records to the requestor</u> if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee. The deposit cannot exceed 1/2 of the total estimated fee.</p> <p style="text-align: right;">Percent of Deposit: _____%</p>	<p>Date Paid:</p> <p>_____</p>	<p>Deposit Amount Required:</p> <p>\$ _____</p>

Deposit: Increased Deposit Due to Previous FOIA Fees Not Paid In Full

After a city has granted and fulfilled a written request from an individual under this act, if the city has not been paid in full the total amount of fees for the copies of public records that the city made available to the individual as a result of that written request, **the city may require an increased estimated fee deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual if ALL of the following apply:**

- (a) The final fee for the prior written request was not more than 105% of the estimated fee.
- (b) The public records made available contained the information being sought in the prior written request and are still in the city's possession.
- (c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request.
- (d) Ninety (90) days have passed since the city notified the individual in writing that the public records were available for pickup or mailing.
- (e) The individual is unable to show proof of prior payment to the city.
- (f) The city calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.

A city **can no longer require an increased estimated fee deposit** from an individual if **ANY** of the following apply:

- (a) The individual is able to show proof of prior payment in full to the city, **OR**
- (b) The city is subsequently paid in full for the applicable prior written request, **OR**
- (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the city.

Percent Deposit Required:
_____ %

Date Paid: _____
Deposit Required:
\$ _____

Late Response Labor Costs Reduction

If the city does not respond to a written request in a timely manner as required under MCL 15.235(2), the city **must** do the following:

- (a) **Reduce the charges for labor costs** otherwise permitted by 5% for each day the city exceeds the time permitted for a response to the request, **with a maximum 50% reduction**, if **EITHER** of the following applies:
 - (i) The late response was willful and intentional, **OR**
 - (ii) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy", or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.

Number of Days Over Required Response Time:

Multiply by 5%
= Total Percent Reduction:

Total Labor Costs
\$ _____
Minus Reduction
\$ _____
= Reduced Total Labor Costs
\$ _____

The Public Summary of the city's FOIA Procedures and Guidelines is available free of charge from:
Website: www.belding.us Email: kthomas@ci.belding.mi.us
Phone: 616-794-1900, Ext. 210 Address: 120 S. Pleasant St., Belding, MI 48809

Balance Must Be Paid Before Copies May Be Picked Up, Delivered or Mailed

Total Balance Due:
\$ _____

(Form created by Michigan Townships Association, April 2015) and revised for use by the City of Belding, June 2015