

**CHARTER TOWNSHIP OF WATERFORD
OAKLAND COUNTY, MICHIGAN**

**RESOLUTION ESTABLISHING AND APPROVING FOIA PROCEDURES AND
GUIDELINES AND PUBLIC SUMMARY**

RECITALS:

A. The Freedom of Information Act (“FOIA”), Public Act No. 442 of 1976, as amended, by Public Act No. 563 of 2014, requires the Township to establish procedures and guidelines to implement the FOIA and to approve a public summary of those procedures and guidelines.

B. Attached to this Resolution are Freedom of Information (“FOIA”) Procedures and Guidelines with Appendices A, B, and C, and a Public Summary of those Procedures and Guidelines, prepared and recommended for approval by the Township Attorney.

C. The Township Board has reviewed and considered its ability under the FOIA, as amended by Public Act No. 563, to add a fringe benefit cost to each FOIA fee labor charge.

IT IS THEREFORE RESOLVED THAT:

1. The Freedom of Information (“FOIA”) Procedures and Guidelines with Appendices A, B, and C attached to this Resolution are approved and established as the Township’s FOIA Procedures and Guidelines and the Public Summary of those Procedures and Guidelines attached to this Resolution is approved.

2. At this time and unless otherwise provided by a future Township Board Resolution, in calculating and charging FOIA fees, the Township shall add and charge a fringe benefit cost to the labor charges for responding to FOIA requests, which shall be based on and limited to the cost to the Township of providing the least expensive health and life insurance, and the minimum retirement plan contribution, to a single employee without dependents based on the lowest paid full time employee classification that may perform FOIA tasks, without regard to who actually performs the task.

AYES: Bartolotta, Birch, Brown, Camilleri, Joliat, Kelley, Wall

NAYES: None

ABSENT: None

CERTIFICATION

I hereby certify that this Resolution was adopted by the Charter Township of Waterford Board of Trustees at a regular meeting of the Board on June 22, 2015.

Date: June 22, 2015

Charter Township of Waterford


Sue Camilleri, Township Clerk

CHARTER TOWNSHIP OF WATERFORD FREEDOM OF INFORMATION ACT ("FOIA") PROCEDURES AND GUIDELINES

Section 1: General Policies

These Procedures and Guidelines are established by the Charter Township of Waterford ("Township") as provided in MCL 125.234, which is Section 4 of the Michigan Freedom of Information Act ("FOIA"), MCL 125.231 – MCL 125.246

The Township Board, acting pursuant to the authority at MCL 15.236, designates the Executive Assistant to the Township Supervisor as the Township FOIA Coordinator, and reserves the right to designate a different individual as FOIA Coordinator by Resolution. The FOIA Coordinator may designate other Township staff to act on his or her behalf to accept and process written requests for public records and to approve denials. Such designations shall be in writing and identify the types of public record requests the designation is for.

If a request for a public record is received by fax or email, the request is deemed to have been received on the following business day. If a request is sent by email and delivered to a Township 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 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 or someone designated by the Coordinator, shall review Township spam and junk-mail folders on a regular basis, which shall be no less than once each month. The FOIA Coordinator shall work with Township Information Systems Department staff to use procedures for handling spam and junk-mail so as to protect Township systems from computer attacks which may be imbedded in an electronic FOIA request.

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

The Township is not obligated to create a new public record or make a compilation or summary of information which does not already exist. The FOIA Coordinator and other Township personnel are not 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 Township on file for a period of at least one year.

These Procedures and Guidelines and a Written Public Summary of these Procedures and Guidelines shall be available without charge at the Township Clerk's office on the 2nd Floor of the Township Hall at 5200 Civic Center Drive, Waterford, Michigan 48329, and shall be maintained on the Township's website at: www.waterfordmi.gov. In lieu of providing paper copies of those documents, a written response to a request for public records may contain a link to those documents on the website.

Section 2: Requesting a 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.

Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Township shall be submitted in written form on any Township provided FOIA Request Form or any other form of writing such as a letter, memorandum, fax, or email. A request must sufficiently describe a public record so as to enable Township personnel to identify and find the requested public record. Verbal requests for records may be responded to by the Township without regard to these Procedures and Guidelines, or the FOIA Coordinator may require the request to be submitted in writing.

A person that makes a verbal request for information that the Township employee receiving the request believes to be available on the Township's website, shall be informed where practicable and to the best of that employee's ability, of that belief and possible location on the website.

Written requests for public records may be submitted in person, by mail, fax, or email, to the FOIA Coordinator. Any Township personnel that receive a request for public records shall promptly forward it to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, emailed or other otherwise provided to him or her in digital form in lieu of paper copies. The Township 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 Township on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

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, the Township will issue a response within 5 business days of the FOIA Coordinator's receipt of request. A request made by fax, email, or other electronic transmission is not considered as received until the next business day. The Township will respond to a request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying the request in part.
- Issue a written notice indicating that the public record requested is available at no charge on the Township's website.
- Issue a notice that the Township is extending its time to respond by not more than an additional 10 business days. Only one such extension is permitted.

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, using the FOIA Fee Itemization Form that is attached as **Appendix A**.

If the cost of processing a FOIA request is \$50.00 or less, the requester will be notified of the amount due and where the documents can be obtained.

If the cost of processing a FOIA request is expected to exceed \$50.00 based on a good-faith calculation, or if the requestor has not paid in full for a previously granted request, the Township will require a good-faith deposit pursuant to Section 4 of these Procedures and Guidelines before processing the request.

In requiring 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 Township to process the request and also provide a best efforts estimate of a time frame it will take the Township to provide the records to the requestor. The best efforts estimate shall be nonbinding on the Township, but will be made in good faith and strive to be reasonably accurate based on the nature of the request and providing the requested records in a manner consistent with the public policy expressed in 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 under the FOIA or other statute; 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 Township; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record because it is exempt from disclosure and why that record or information is exempt from disclosure under the FOIA or other statute; and
- An explanation of the person's right to submit an appeal of the denial to the Township Board and/or seek judicial review of the denial in the Oakland County Circuit Court; and
- Notice of the possible right to receive attorneys' fees and damages as provided in MCL 125.240, if the Court finds the Township has not complied with MCL 125.235 and orders disclosure of all or part of the public record that was denied.
- The Notice of Denial shall be signed by the FOIA Coordinator or the Coordinator's designee.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial based on that reason, seek written clarification or amendment of the request by the person that made it. The time for responding to a request that is clarified or amended shall begin on the date the FOIA Coordinator receives the clarification or amendment.

If there is a request to inspect public records, the Township shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours consistent with the Inspection of Records Guidelines that are attached as **Appendix B.** In administering those Guidelines, the FOIA Coordinator is authorized to limit or specify the location, times, number of persons, and manner in which records may be inspected so as to protect Township records from loss, alteration, mutilation or destruction and to prevent interference with the regular duties and operations of the Township and custodian of the records.

If there is a request for certified copies, 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, the requestor may be required to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not paid the Township in full for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:

- The final fee for the prior written request is not more than 105% of the estimated fee;
- The public records made available contained the information sought in the prior written request and remain in the Township's possession;
- The public records were made available to the individual, subject to payment, within the time frame estimated by the Township to provide the records;
- 90 days have passed since the FOIA Coordinator provided written notice to the person that the public records were available for pickup or mailing;
- The individual is unable to show proof of prior payment to the Township; 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 from the requesting person if any of the following apply:

- That person is able to show proof of prior payment in full to the Township;
- The Township 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 Township.

Section 5: Calculation of Fees

A fee may be charged for the labor cost of copying/duplication.

A fee will not be charged for the labor 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 Township because of the nature of the request in the particular instance, and the Township specifically identifies the nature of the unreasonably high costs. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the costs of the Township's usual FOIA requests, with the following factors to be used to determine an unreasonably high cost to the Township:

- 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 the public records are from more than one Township department or whether various Township offices are 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 Township may only charge for the following six (6) tasks associated with processing a granted request:

1. Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the Township. These labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
2. Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Township. These labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
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. This may include the cost for copies of records already on the Township's website if the request is for the Township to make copies.
4. The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the Township's website if the request is for the Township to make copies.
5. Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet, and in mailing or sending a public record to a requestor. These labor costs will be estimated and charged in one minute increments, with all partial time rounded down.
6. The cost to mail a public record to a requestor.

Labor costs will be calculated based on the following requirements:

- Labor costs will be charged at the hourly wage of the lowest-paid Township employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- If separately approved by Township Board Resolution, labor costs may also include a charge to cover or partially cover the cost of fringe benefits in the amount of up to 50% to the applicable labor charge provided it does not exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at an hourly rate not-to-exceed six (6) times the State of Michigan minimum hourly wage (currently \$48.90).

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 Township has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- The Township will procure any non-paper media and will not accept media from the requestor in order to ensure integrity of the Township's technology infrastructure.

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 legal (8 1/2" x 14") sized paper will be at the actual cost to the Township but will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The Township will provide records using double-sided printing, if such printing results in cost-saving and is 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 Township may charge for the least expensive form of postal delivery confirmation.
- No cost will be charged for expedited shipping or insurance unless specified by the requestor.

If the FOIA Coordinator does not respond to a written request in a timely manner, the Township will reduce the labor costs by 5% for each day the Township exceeds the time permitted under FOIA up to a 50% maximum reduction and fully note the charge reduction in the Detailed FOIA Fee Itemization Form., if any of the following applies:

- The Township's late response was willful and intentional,
- The written request included a request for information within the first 250 words of the body of a letter, fax, email, or email attachment, or
- 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 email, letter, or fax cover page.

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 it can be considered as primarily benefitting the general public. By Resolution, the Township Board may identify specific records or types of records that it has determined should be made available for no charge or at a reduced cost. In the public interest and to benefit the general public, numerous Township public records are available for free on the Township website. Fees will not be waived for providing copies of public records that are available on the website.

Section 7: Discounted Fees

Indigence:

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit, swearing under oath that they are:

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

An individual is not eligible to receive the waiver if:

- The requestor has previously received discounted copies of public records from the Township twice during the calendar year; or
- The requestor requests information in conjunction with other persons in exchange for payment or other remuneration (compensation.)

Nonprofit organization advocating for developmentally disabled or mentally ill individuals:

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from 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, 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 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, 1974 PA 258, MCL 330.1931.
- Is accompanied by documentation of its designation by the state, if requested by the Township.

Section 8: Appeal of a Denial of a Public Record

When a requestor believes that all or a portion of a public record request has been improperly denied by failure to disclose, improperly exempting from disclosure, or otherwise, he or she may appeal to the Township Board by filing an appeal of the denial with the office of the Township Clerk, providing a copy to the FOIA Coordinator, both at, 5200 Civic Center Drive Waterford, MI 48329.

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.

The Township Board is not considered to have received a written appeal until its first regularly scheduled meeting following submission of the written appeal to the Township Clerk.

Within 10 business days of receiving an appeal the Township Board shall do one (1) of following, with the upholding in full or in part of the disclosure denial to be issued in writing:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- Reverse the disclosure denial in part and uphold the disclosure denial in part; or
- Under unusual circumstances, issue a written notice extending for not more than 10 business days the period during which the Township Board shall respond to the written appeal. The Township Board shall not issue more than 1 notice of extension for a particular written appeal.

If the Township Board fails to respond to a written appeal or 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 in the Oakland County Circuit Court, 1200 North Telegraph Road, Pontiac, MI 48341.

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

Section 9: Appeal of an Excessive FOIA Processing Fee

"Fee" means the total fee or any component of the total fee calculated under section 4 of the FOIA, including any deposit. If a requestor believes that the fee charged by the Township to process a FOIA request exceeds the amount permitted by state law or under these Procedures and Guidelines, he or she must first appeal to the Township Board by submitting a written appeal for a fee reduction to the office of the Township Clerk, providing a copy to the FOIA Coordinator, both at 5200 Civic Center Drive Waterford, MI 48329. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted under these Procedures and Guidelines.

Within 10 business days after receiving the appeal, the Township Board shall do one (1) of the following, with the written determination for any reduction or upholding of the fee to include a certification from the Township Board that the statements in the determination are accurate and that the reduced fee amount complies with these Procedures and Guidelines and MCL 125.234:

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

- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Township Board will respond to the written appeal. The Township Board shall not issue more than 1 notice of extension for a particular written appeal.

Within 45 days after receiving notice of the Township Board's determination of an appeal, or if the Township Board does not respond to an appeal as required, within 45 days of when it should have, the requesting person may commence a civil action in the Oakland County Circuit Court, 1200 North Telegraph Road, Pontiac, MI 48341 for a fee reduction.

If a civil action is commenced against the Township for an excess fee, the Township 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 in circuit court unless one of the following applies:

- The Township Board failed to respond to the written appeal as required, or
- The Township Board has issued a determination to the written appeal.

Section 10: Conflicts, Amendments, and Effective Date

To the extent that these Procedures and Guidelines conflict with previous FOIA policies or fee schedules adopted by the Township Board, these Procedures and Guidelines are controlling. The FOIA Fee Schedule adopted by the January 26, 2015, Resolution of the Township Board shall not apply to any FOIA request received or responded to after these Procedures and Guidelines take effect.

To the extent that any provision of these Procedures and Guidelines or any procedure or determination by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with the FOIA or any other State or Federal statute, the applicable statute shall control. The FOIA Coordinator is authorized to vary from these Procedures and Guidelines on a temporary basis as necessary to avoid such conflicts pending modifications or amendments being approved by Resolution of the Township Board.

These FOIA Procedures and Guidelines shall take effect **July 1, 2015**.

Section 11: Appendices

The following Appendices are attached to and part of these Procedures and Guidelines. The FOIA Coordinator is authorized to develop, use, and provide additional forms for requests, extensions, notices, appeals, and other actions involved in the administration of these Procedures and Guidelines, and to add those documents as additional Appendices.

- A. FOIA Fee Itemization Form
- B. Inspection of Records Guidelines
- C. FOIA Request Form

APPENDIX A - FOIA PROCEDURES AND GUIDELINES
Charter Township of Waterford FOIA Fee Itemization Form

COMPONENT	DESCRIPTION	COST PER HOUR
(1) Labor Costs Search, Location, and Examination of Records*	Enter the <u>hourly wage</u> of lowest paid employee capable of performing the search, location and examination	\$0.00
	Fringe benefit multiplier determined by dividing \$5.17/hour maximum fringe benefit cost by <u>hourly wage</u> . (maximum of 50% of the hourly wage unless records available online but requested in another format and not to exceed actual cost).	\$5.17 #DIV/0!
	Subtotal the <u>hourly wage</u> and the <u>fringe benefit cost</u> to determine <u>hourly rate</u>	\$5.17
(overtime only)	If stipulated by the requestor, increase the <u>hourly rate</u> by the hourly overtime wage increment. Determine this with the following calculations:	
(overtime only)	<u>hourly wage x 1.5 = overtime wage</u>	\$0.00
(overtime only)	<u>(overtime wage - hourly wage) + hourly rate = OT hourly rate</u>	\$5.17
	Divide the resulting <u>hourly rate or OT hourly rate</u> by 4 to determine the charge per 15 minute increments	\$1.29
	Number of 15 minute increments (partial time increments must be rounded down)	0
	Calculated Labor Cost for Search, Location & Examination of Records (15 minute increments multiplied by the permitted labor rate as calculated above)	\$0.00
COMPONENT	DESCRIPTION	COST PER HOUR
(2) Labor Costs Redaction performed by public body's employee*	Enter the <u>hourly wage</u> of lowest paid employee capable of performing redaction	\$0.00
	Fringe benefit multiplier determined by dividing \$5.17/hour maximum fringe benefit cost by <u>hourly wage</u> . (maximum of 50% of the hourly wage unless records available online but requested in another format and not to exceed actual cost).	\$5.17 #DIV/0!
	Subtotal the <u>hourly wage</u> and the <u>fringe benefit cost</u> to determine <u>hourly rate</u>	\$5.17
(overtime only)	If stipulated by the requestor, increase the <u>hourly rate</u> by the hourly overtime wage increment. Determine this with the following calculations:	
(overtime only)	<u>hourly wage x 1.5 = overtime wage</u>	\$0.00
(overtime only)	<u>(overtime wage - hourly wage) + hourly rate = OT hourly rate</u>	\$5.17
	Divide the resulting <u>hourly rate or OT hourly rate</u> by 4 to determine the charge per 15 minute increment	\$1.29
	Number of 15 minute increments (partial time increments must be rounded down)	0
	Calculated Labor Cost for Redaction performed by public body's employee (15 minute increments multiplied by the permitted labor rate as calculated above)	\$0.00

COMPONENT	DESCRIPTION	COST PER HOUR
(3) Labor Costs Redaction performed by a contractor*	Only permitted if the public body does not employ a person capable of redacting the records as determined by the FOIA Coordinator). Enter name of contracted person or firm: Enter the hourly rate charged by the contractor (may not exceed six (6) times the State minimum wage (i.e. \$8.15 x 6 - \$48.90 currently 7/1/15) Number of 15 minute increments (partial time increments must be rounded down) Calculated Labor Cost for Redaction performed by contractor (15 minute increments multiplied by the permitted labor rate as calculated above)	\$0.00 0 \$0.00
COMPONENT	DESCRIPTION	COST PER HOUR
(4) Labor Costs Duplication, Copying and Transferring records to non-paper physical media (overtime only) (overtime only) (overtime only)	Enter the <u>hourly wage</u> of lowest paid employee capable of performing the duplication, copying or transferring of digital records to non-paper physical media <u>Fringe benefit</u> multiplier determined by dividing \$5.17/hour maximum fringe benefit cost by <u>hourly wage</u> . (maximum of 50% of the hourly wage unless records available online but requested in another format and not to exceed actual cost). Subtotal the <u>hourly wage</u> and the <u>fringe benefit cost</u> to determine <u>hourly rate</u> If stipulated by the requestor, increase the <u>hourly rate</u> by the hourly overtime wage increment. Determine this with the following calculations: <u>hourly wage x 1.5 = overtime wage</u> <u>(overtime wage - hourly wage) + hourly rate = OT hourly rate</u> Divide the resulting <u>hourly rate or OT hourly rate</u> by 4 to determine the charge per 15 minute increment Number of 15 minute increments (partial time increments must be rounded down) Calculated Labor Cost for Duplication, Copying and Transferring records to non-paper physical media (15 minute increments multiplied by the permitted labor rate as calculated above)	\$0.00 \$5.17 #DIV/0! \$5.17 \$0.00 \$5.17 \$1.29 0 \$0.00
COMPONENT	DESCRIPTION	COST PER
(5) Non-Paper Physical Media	Actual and most reasonably economical cost of:	
CDR 700MB with hard case	Cost per cd Number Used CDR total cost	\$0.00 0 \$0.00
DVR 4.76GB with hard case	Cost per DVR Number Used DVR total cost	\$0.00 0 \$0.00
USB Flash Drive 8BG	Cost per flash drive Number used Flash drive total cost	\$0.00 0 \$0.00

Other non paper media	Cost per	\$0.00
	Number used	0
	Total for other non-paper media	\$0.00
	Total all non-paper physical media	\$0.00
COMPONENT	DESCRIPTION	COST PER
(6) Paper Copies	Actual total incremental cost of duplication not including labor up to a maximum of \$.10 per page. NOTE: must print double sided if available and costs less.	
Letter sized (8.5" x 11")	Cost per sheet	\$0.00
	Number of sheets used	0
	Total cost for letter sized copies	\$0.00
Legal sized (8.15" x 14")	Cost per sheet	\$0.00
	Number of sheets used	0
	Total cost for legal sized copies	\$0.00
Other types and sizes		
Type of Paper:		
	Cost per sheet	\$0.00
	Number used	0
	Total cost for other types and sizes	\$0.00
	Total all paper copies	\$0.00
COMPONENT	DESCRIPTION	COST PER
(7) Mailing	Actual cost of mailing records in a resonable and economical manner:	
	Cost of envelope:	\$0.00
	Cost of postage:	\$0.00
	Cost of least expensive form of postal delivery confirmation:	\$0.00
	Cost of expedited shipping or insurance only if specifically stipulated by the requestor:	\$0.00
	Total actual mailing cost	\$0.00
SUBTOTAL	All applicable costs above	\$0.00
COMPONENT	DESCRIPTION	COST PER
Waivers and reductions	Subtract any fee waiver or reduction: \$20.00 for indigency or non-profit organization as further described in the FOIA procedures and guidelines	\$0.00
	Any amount determined by the Township Board or FOIA coordinator due to the search and furnishing of the Public Record determined to be in the public interest	\$0.00
	The reduction amount due to the late response of the Public Body (5% of fee x number of days late = % reduction) Maximum of 50%	\$0.00
Deposit	Subtract any good-faith deposit received	\$0.00
	Total Due:	\$0.00

* Note: Labor costs for search, location, examination and redaction may not be charged unless the failure to charge a fee would result in unreasonably high cost to the Township because of the nature of the request in the particular instance, and the FOIA coordinator specifically identifies the nature of those unreasonably high costs.

APPENDIX B – FOIA PROCEDURES AND GUIDELINES

Charter Township of Waterford Inspection of Records Guidelines

Public Inspection of Records

1. Upon receiving a request to inspect Township public records, the Township shall furnish the requesting person with a reasonable opportunity and reasonable facilities for inspection and examination of its public records.

2. A person shall be allowed to inspect Township public records during usual business hours for at least four (4) hours per day, which need not be consecutive. The public does not have unlimited access to Township offices or facilities, and a person may be required to inspect records at a specified counter, table, room, or area and in view of Township personnel.

3. Township officials, appointees, staff or consultants/contractors monitoring or assisting with inspection of public records shall inform any person inspecting records that only pencils, and no pens or ink, may be used to take notes.

4. In coordination with the official responsible for the records, the FOIA coordinator shall determine on a case-by-case basis when the Township will provide copies of original records for inspection, 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.

5. The official responsible for the records to be inspected and/or FOIA coordinator is responsible for identifying if those records are stored in digital files or e-mail, even if the public does not specifically request inspection of a digital file or e-mail. The Township is not required to make paper copies of such records for inspection unless such copies have been requested in writing in a FOIA request. A fee may be charged for copies made to enable public inspection of records, according to the Township's FOIA policy.

6. A person cannot remove books, records or files from the place the Township has provided for the inspection.

7. No documents shall be removed from the office of the custodian of those documents without permission of that custodian, except by court order, subpoena or for audit purposes. The official shall be given a receipt listing the records being removed. Documents may be removed from the office of the custodian of those documents with permission of that custodian to accommodate public inspection of those documents.

APPENDIX C – FOIA PROCEDURES AND GUIDELINES

Charter Township of Waterford FOIA Request for Public Records Form

Public records of the Charter Township of Waterford may be requested by completing and submitting this form to the Township FOIA Coordinator, currently the Executive Assistant to the Township Supervisor, by:

1. Personal delivery or mail to 5200 Civic Center Drive, Waterford, MI 48329.
2. Fax to (248) 674-5451.
3. Email to srobinson@waterfordmi.gov

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

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

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

Describe the public record(s) being requested as specifically as possible (attach additional page if necessary.)

Requestor's Signature	Date

Consent to Non-Statutory Extension of Township's Response Time (Optional)

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 township 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 Township's response time for this request until: _____ (month, day, year).

Requestor's Signature	Date
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CHARTER TOWNSHIP OF WATERFORD

Public Summary of FOIA Procedures and Guidelines

It is the public policy of this state that all persons (except those persons incarcerated in state or local correctional facilities) 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 public employees. The people shall be informed so that they may fully participate in the democratic process.

Consistent with the Michigan Freedom of Information Act ("FOIA"), Public Act 442 of 1976, the following is the Written Public Summary of Waterford Township's FOIA Procedures and Guidelines relevant to the general public. For more details and information, copies of the Township's FOIA Procedures and Guidelines are available at no charge at the Township Clerk's office and on the Township's website at www.waterfordmi.gov.

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

- A request to inspect or obtain copies of a public record must be in writing and sufficiently describe a public record so as to enable the Township to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the Township in providing a prompt response.
- Requests may be in any written form (letter, memo, fax, email, etc.) or on the Township's FOIA Request Form, which is available on the Township's website at www.waterfordmi.gov., for FOIA documents under the Government heading, and at the Clerk's Office in the Township Hall at 5200 Civic Center Drive, Waterford, MI 48329.
- Requests should be addressed or directed to the attention of the Township FOIA Coordinator, currently the Executive Assistant to the Township Supervisor, and may be delivered using one or more of the following methods:
 1. Personal delivery or mail to 5200 Civic Center Drive, Waterford, MI 48329.
 2. Fax to (248) 674-5451.
 3. Email to srobinson@waterfordmi.gov
- Requests for public records that may be in the possession or custody of the Township Fire Department may be submitted to the Township FOIA Coordinator and/or be submitted, addressed and directed to the attention of the FOIA Coordinator for the Fire Department and delivered using one of the following methods:
 1. Personal delivery or mail to Waterford Township Fire Department, 2495 Crescent Lake Road, Waterford, MI 48329.
 2. Fax to (248) 674-4095.
- Requests for public records that may be in the possession or custody of the Township Police Department may be submitted to the Township FOIA Coordinator and/or be

submitted, addressed and directed to the attention of the FOIA Coordinator for the Police Department and delivered using one of the following methods:

1. Personal delivery or mail to Waterford Township Police Department, 5150 Civic Center Drive, Waterford, MI 48329.
2. Fax to (248) 673-5190.

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

- Within 5 business days after receiving your FOIA request the Township FOIA Coordinator will issue a response. If a request is received by fax or email, the request is treated as received on the next business day. The response may be to:
 - 1) Grant the request,
 - 2) Issue a written notice denying the request,
 - 3) Grant the request in part and issue a written notice denying the request in part,
 - 4) Issue a written notice extending the time to respond by not more than 10 business days, or
 - 5) Issue a written notice indicating that the public record requested is available at no charge on the Township's website
- If the request is granted, or granted in part, the Township 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 \$50.00, or if you have not paid for a previously granted request, the Township will require a deposit before processing the request.

3. What are the Township's deposit requirements?

- If the Township has made a good faith calculation that the total fee for processing the request will exceed \$50.00, the Township will require that you provide a deposit in the amount of 50% of the total estimated fee. When the Township requests the deposit, it will provide you a non-binding, best efforts estimate of how long it will take to process the request after you have paid your deposit.
- If the Township receives a request from a person who has not paid the Township for copies of public records made in fulfillment of a previously granted written request, the Township will require a deposit of 100% of the estimated processing fee for the new request before it begins to search for the public records 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 for the new request;
 - 2) The public records made available contained the information sought in the prior written request and remain in the Township's possession;
 - 3) Subject to payment, the public records were made available in response to the prior request within any best effort time frame that was estimated by the Township;
 - 4) 90 days have passed since the Township provided written notice that the public records were available for pickup or mailing;

- 5) The person is unable to show proof of prior payment to the Township; and
- 6) The Township has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.

The Township will not require the 100% estimated fee deposit for a new request if any of the following apply:

- 1) The person making the request is able to show proof of prior payment in full to the Township;
- 2) The Township 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 Township.

4. How does the Township calculate FOIA processing fees?

The FOIA permits the Township to charge for the following fees associated with processing a granted request and requires that the fees be itemized. A Fee Itemization Form that is part of the Township's FOIA Procedures and Guidelines as Appendix B is used to do that.

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

Labor Costs

- All labor costs will be estimated and charged as allowed in FOIA and the Township's FOIA Procedures and Guidelines.
- Labor costs will be charged at the hourly wage of the lowest-paid Township employee capable of doing the specific work, regardless of who actually performs the work.

- If the Township Board has separately approved doing so by an adopted Resolution, labor costs may also include a charge to cover or partially cover the cost of fringe benefits. The Township 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 unless agreed to by the requestor;
- Contracted labor costs will be charged at the hourly rate of \$48.90 (6 times the current state minimum hourly wage).

A labor cost will not be charged for the 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 Township. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the Township's usual FOIA requests, because of the nature of the request in the particular instance. The Township must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

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

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the Township has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Paper Copies

- Paper copies of public records made on standard letter (8 1/2" x 11") or legal (8 1/2" x 14") sized paper will not exceed \$.10 per sheet of paper.
- Copies for non-standard sized sheets will paper will reflect the actual cost of reproduction.

Mailing Costs

- Mailing will be at the actual cost of the reasonably economical and justified means used.
- The Township may charge for the least expensive form of postal delivery confirmation.
- No cost will be charged for expedited shipping or insurance unless you request it.

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 it can be considered as primarily benefitting the general public. By Resolution, the Township Board may identify specific records or types of records it deems should be made available for no charge or at a reduced cost. Fees will not be waived for providing copies of public records that are available on the Township website.

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

The Township will discount the first \$20.00 of fees for a request if you submit a signed affidavit, swearing under oath (notarized) stating that you are:

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

You are not eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the Township twice during the calendar year; or
- Are requesting information in conjunction with or for other persons in exchange for payment or other remuneration (compensation) they have offered and given you.

6. May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is 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, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, may receive a \$20.00 discount if the request meets all of the following requirements:

- 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.
- 3) Is accompanied by documentation of its designation by the state, if requested by the public body.

7. How may I challenge the denial of a public record?

If you believe that all or a portion of a public record has been improperly denied by failure to disclose, improperly exempting from disclosure, or otherwise, you may appeal to the Township Board by filing a written appeal of the denial with the office of the Township Clerk and providing a copy to the FOIA Coordinator, both at 5200 Civic Center Drive, Waterford, MI 48329.

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.

Your appeal will be considered as received by the Township Board on the date of its first regular meeting after you submit the appeal. Within 10 business days of that date, the Township Board must do one of the following in writing:

- Reverse the disclosure denial;
- Uphold the disclosure denial;
- Reverse the disclosure denial in part and uphold the disclosure denial in part.
- Extend the time for doing one of the above by not more than 10 business days.

If the Township Board fails to respond to an appeal as required or upholds all or part of a disclosure denial, you may file a civil action seeking judicial review of the denial in the Oakland County Circuit Court, 1200 North Telegraph Road, Pontiac, MI 48341. However, an appeal to the Township Board is not required and you may file the civil action in Court at any time so long as it is within 180 days after the Township's final determination to deny your request.

8. How may I challenge a FOIA Processing Fee?

If you believe that the fee charged by the Township to process your FOIA request exceeds the amount permitted by state law or under the Township's FOIA Procedures and Guidelines, you must first appeal to the Township Board by filing a written appeal for a fee reduction with the office of the Township Clerk and providing a copy to the FOIA Coordinator, both at 5200 Civic Center Drive, Waterford, MI 48329.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Your appeal will be considered as received by the Township Board on the date of its first regular meeting after you submit the appeal. Within 10 business days of that date, the Township Board must do one of the following in writing:

- Waive the fee;
- Reduce the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- Uphold the fee and issue a written determination indicating the specific basis that supports the required fee; or
- Extend the time for doing one of the above by not more than 10 business days.

If the Township Board does not respond to your fee appeal as required, or you are not satisfied with the Township Board's determination of a fee appeal, you may commence a civil action in the Oakland County Circuit Court, 1200 North Telegraph Road, Pontiac, MI 48341, for a fee reduction. That action must be filed within 45 days of when you receive notice of the Township Board's determination, or if the Township Board did not respond to your appeal as required, within 45 days of when it should have.