# MOUNT CLEMENS PUBLIC LIBRARY

## WRITTEN PUBLIC SUMMARY OF THE FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

The Mount Clemens Public Library ("Library") adopts this written public summary pursuant to the requirements of Section 4(4) of the Michigan Freedom of Information Act, 1976 PA 442 ("FOIA") so that the public will understand the Library's Procedures and Guidelines for processing FOIA requests. This is a summary of the Procedures and Guidelines. A complete copy of the Procedures and Guidelines is available at the Library located at 150 Cass Avenue, Mount Clemens, MI 48043 or on the website at https://mtclib.org/161/Policies.

### A. How Can I Request a Public Record?

- A person (except those persons incarcerated in state, county, or federal correctional facilities), may request public records.
- The requestor must send a written request for the public record to the Library. A request can be made through a letter, in person, or sent by electronic transmission. The requests should be directed to the FOIA Coordinator. The contact information is as follows:

  Mount Clemens Public Library
  Attn: FOIA Coordinator
  150 Cass Avenue
  Mount Clemens, MI 48043
  Email: info@mtclib.org

- A request from a person must include (unless the request is from an individual who qualifies as indigent) the person's complete name, address (in compliance with United States Postal Service standards), and contact information, and if made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. Contact information must include a valid telephone number or electronic mail address.
- The requestor will not be required to use a specific form or format, but requests must identify the public record sufficiently to allow the Library to find the requested record.
- The Library may, but is not required to, respond to a verbal request. However, if the Library believes the information is available on the website, the Library will inform the requestor of the website location where practicable and to the best of his or her knowledge.

### B. When Can I Expect a Response?

- Unless otherwise agreed to in writing, the Library will respond or seek a deposit within 5 business days after it received the request. However, the Library may extend that time period by 10 business days.

- Please keep in mind that a request sent by e-mail or other electronic means is not considered received until 1 business day after it is transmitted. If the request is sent to a spam or junk mail folder, it is not considered received until 1 day after it is discovered.

**C. How Can I Understand the Response?**

- If the Library grants a written request in full, the requestor will receive a notice indicating that it has been granted.
- However, if the request is denied or denied in part, the Library shall provide any or all the following information, depending upon the reason for the denial.
  i. An explanation of the basis that the public record, or portion of that public record, is exempt from disclosure, including a description of the information that is separated or deleted.
  ii. A certificate that the public record does not exist under the name given by the requestor or by another name reasonably known to the Library.
  iii. A full explanation of the requesting person's right to (1) submit to the Library Board a written appeal; or (2) seek judicial review of the denial under Section 10 of the FOIA. (See below for more details).
  iv. Notice of the right to receive attorneys' fees and damages if a court determines that the Library has not complied and orders disclosure of all or a portion of a public record.
- If a request is granted in part or granted in full, the Library will require payment before providing documents.

**D. What if I Request Documents Available on the Website?**

- If documents are available on the website, to the degree practicable, the response will include a specific webpage address where the requested information is available.
- The Library will inform the requestor of the additional charge to receive copies of the public records that are available on its website.

**E. What Fees Will the Library Charge?**

- The FOIA Coordinator will provide a detailed itemization of costs.
- For labor costs, the fee shall not exceed the sum of the following components:
  i. <u>Hourly Wage:</u> The Library will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records; separating and deleting exempt information from non-exempt information; and for duplication and publication regardless of whether that person is available or who actually performs the labor, except if the Library does not employ a person capable of separating and deleting exempt information from non-exempt information, it may treat necessary contracted labor costs for that purpose in the same manner as employee labor costs but may not exceed 6 times the State minimum hourly wage.
  ii. <u>Time Increments:</u> The fee will be charged in fifteen (15) minute increments, with all partial time rounded down, except the labor fee for

duplication and publication, which shall be charged in one (1) minute increments.

iii. Determination of Unreasonably High Labor Costs: The fee for searching for, locating and examining public records and separating exempt information from non-exempt information (including redacting) will not be charged, unless failure to charge a fee would result in unreasonably high costs to the Library because of the nature of the request in the particular instance, and the Library specifically identifies the nature of these unreasonably high costs.

iv. Overtime: Overtime wages shall not be included unless agreed to by the requestor.

v. Description of Charge: The detailed itemization will include both the hourly wage and the number of hours charged.

vi. Fringe Benefit Costs: The Library may also add up to 50% to the applicable labor charge amount (but may not exceed actual costs) to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used to account for benefits, unless a requestor wants records that are available on the website. In which case, the fringe benefit multiplier can be greater than the 50% limitation.

- For public records provided to the requestor on nonpaper physical media (discs, flash drives, e-mails), the Library may charge the actual and most reasonably economical cost of the media.
- For paper copies, the Library may charge the actual total incremental cost of necessary duplication or publication not to exceed $.10 per page (single or double sided) for 8 ½ x 11 inch paper or 8 ½ x 14 inch paper. The Library will charge the actual cost of copies made on paper of a different size. The Library will use double-sided printing, if cost saving and available.
- The Library may charge the actual cost of mailing and the least expensive form of postal delivery confirmation.

**F. Will a Deposit be Required? When do I have to Pay the Deposit?**

- The Library may require a good-faith deposit of ½ of the estimated fee if the entire fee estimate or charge authorized under the FOIA exceeds $50.00, based on a good-faith calculation of the total estimated fee.
- The Library will also provide a best efforts, nonbinding estimate of the time frame it will take the Library to provide the public records to the requestor.
- If the Library has granted a prior request but has not been paid in full, the Library may require a deposit of up to 100% of the estimated fee if all the following apply:

  i. The final fee for the prior written request was not more than 105% of the estimated fee.

  ii. The public records made available contained the information being sought in the prior written request and are still in the Library's possession.

  iii. The public records were made available to the individual, subject to payment, within the time frame estimate described in Section 4(7) of the FOIA.

iv. Ninety days have passed since the Library notified the individual in writing that the public records were available for pick up or mailing.
v. The individual is unable to show proof of prior payment to the Library.
vi. The Library calculates a Detailed Itemization that is the basis for the current written request's increased estimated fee deposit.

- The Library shall no longer require an increased estimated fee deposit if **<u>any</u>** of the following apply:
  i. The individual is able to show proof of prior payment in full to the Library.
  ii. The Library is subsequently paid in full for the applicable prior written request; or
  iii. Three hundred sixty-five days have passed since the individual made the written request for which full payment was not remitted to the Library.
- If a deposit is not received within 45 days from receipt of the deposit notice letter (it is considered received 3 days after it is sent), and no appeal of the deposit amount is filed, the request is abandoned. The notice of a deposit will include the date by which the deposit must be received (48 days after notice is sent).

**G. Am I Entitled to a Waiver or Reduction of Fees?**

- A reduction of the fee by $20.00 is available to certain individuals who submit an affidavit stating they are indigent and receiving public assistance, or if not receiving public assistance, stating facts showing inability to pay because of indigency. For this reduction to apply, the individual may not have received discounted fees twice during that calendar year and the person may not be requesting on behalf of parties who are paying to make the request.
- A reduction of the fee by $20.00 is also available to certain non-profit organizations formally carrying 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, provided that the request is made on behalf of the organization or its clients, is made for a reason consistent with the laws under Section 931 of the mental health code and is accompanied by documentation of its designation by the state.
- The FOIA Coordinator may reduce or waive the imposition of fees if the FOIA Coordinator 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 benefitting the general public.
- If the Library does not respond to a written request in a timely manner as required by the FOIA, the Library shall reduce the charges for labor costs by 5% for each day the Library exceeds the time permitted, with a maximum 50% reduction, if the late response was willful and intentional or the written request included specific language as set forth more fully in the Procedures and Guidelines.

**H. How Can I Appeal a Decision to Deny All or Part of My Request?**

- If a requestor desires to appeal all or part of a decision to deny a request, the requestor must submit to the Mount Clemens Public Library Board ("Library

Board") a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.
    - The Library Board is not considered to have received a written appeal until the first regularly scheduled meeting after submission of the written appeal.
    - The Library will respond within 10 business days by reversing the disclosure denial, upholding the denial, revising in part and upholding in part the denial or issuing a 10 business day extension.

**I. How Can I Appeal a Determination of the Fee or Deposit Amount?**

- The requestor may submit to the Library Board 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 Procedures and Guidelines or Section 4 of the FOIA.
- The Library Board is not considered to have received a written appeal until the first regularly scheduled meeting after the submission of the written appeal.
- The Library will respond within 10 business days by waiving the fee, reducing the fee and explaining the basis for the remaining fee, upholding the fee or issuing a 10 business day extension.

**J. Can I File a Lawsuit Regarding the Denial of a FOIA Request?**

- If the Library Board fails to respond to a written appeal or if the Library Board upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requestor may seek judicial review of the nondisclosure by commencing a civil action within 180 days after the Library's final determination to deny a request. A requestor may also commence a civil action in the circuit court to compel the Library's disclosure of the public records within 180 days after the Library's final determination to deny a request. The requestor is not required to appeal the denial to the Library Board before commencing the civil action.
- If a person prevails in an action regarding the denial of a request, the court shall award reasonable attorneys fees, costs and disbursements. If the person prevails in part, the court may award all or a portion of the attorneys' fees, costs and disbursements. If the court determines the FOIA was arbitrarily or capriciously violated, the court shall order a civil fine of $1,000.00 to be paid to the state treasury. The court may also award actual, compensatory or punitive damages.

**K. Can I file a Lawsuit Regarding the Fee Charged For a FOIA Request?**

- A requestor may commence a civil action in the circuit court for a fee reduction if the Library (1) failed to respond to a written appeal or (2) issued a determination of a written appeal. This action must be filed within 45 days after receiving notice of the determination of an appeal to the Library Board. The requestor must file an appeal for a fee reduction before commencing a circuit court action.
- If a person prevails in an action by receiving a reduction of 50% or more of the total fee, the court may award all or a portion of the reasonable attorney's fees. If the court determines FOIA was arbitrarily or capriciously violated, the court shall order a civil fine of $500.00 to be paid to the state treasury. The court may also award actual, compensatory, or punitive damages.