

HOUGHTON LAKE PUBLIC LIBRARY

Freedom of Information Act (FOIA)

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The library reserves the right to amend, revise or repeal all or any part of the guidelines and procedures at any future time.

**Houghton Lake Public Library
Freedom of Information Act (FOIA)
Procedures and Guidelines**

Procedure: Freedom of Information Act Requests, 1976 PA 442, MCL 15.231 et seq (FOIA) Effective Date: July 1, 2015

A. Appointment of FOIA Coordinator.

In accordance with section 6 of the FOIA, MCL 15.236, the Library has appointed a FOIA Coordinator, as well as an alternate FOIA Coordinator. The names of the FOIA Coordinator and alternate FOIA Coordinator are available from the Library Director's Office.

The FOIA Coordinator shall report action taken on FOIA requests at the next scheduled meeting of the Houghton Lake Public Library Board.

B. Submission of FOIA Request.

FOIA requests to the Houghton Lake Public Library can be sent by mail or email as noted:

Houghton Lake Public Library
ATTN: FOIA Coordinator/Library Director
4431 W. Houghton Lake Dr.
Houghton Lake, MI 48629

Send to: staff@hlpl.lib.mi.us
In the subject line, please add: *ATTN: FOIA Coordinator/Library Director*

Requests should include a name, phone, email address, fax number and mailing address.

C. Immediately Forward FOIA Request.

Any employee of the Library who receives a written request for a public record must immediately forward that request to the FOIA Coordinator. If a Library employee receives a written request for a public record that is delivered to a spam or junk-mail folder, the employee must record the date and time the written request is delivered to the spam or junk-mail folder and date and time the employee first becomes aware of the written request. The employee must forward those dates and times to the FOIA Coordinator with the written request.

D. Request Response Time.

The Library must respond to FOIA requests within 5 business days after receipt of the request. The Library may extend the time for responding by an additional 10 business days by notifying the requesting person in writing of the reason for the extension and the new due date. MCL 15.235(2) (d) and (6). Due to the short statutory time period within

which the Library must issue a written notice in response to the FOIA request, it is imperative that there be no delay in complying with the Library procedures and guidelines.

Written requests made by facsimile, electronic mail or other electronic transmission are not received by the FOIA Coordinator until 1 business day after the electronic transmission is made.

E. Response to a FOIA Request.

Only the Library's FOIA Coordinator or Alternate FOIA Coordinator will respond to FOIA requests. The Library will provide copies of these procedures and guidelines and a summary of these procedures and guidelines with each written response, or provide a link to an online version of these documents. If a request is denied, in full or in part, the Library will provide the requester with an explanation of the basis of the denial under the FOIA, and give notice to the requester of his or her remedial rights. MCL 15.235(4)

F. Assessment of Fees for a FOIA Request.

The FOIA permits the Library to charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material, but only if the 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. MCL 15.234(1) and (3)

The following fee guidelines for calculating labor and material costs incurred in processing FOIA requests are established pursuant to MCL 15.234(3):

1. Fees will be uniform and not dependent upon the identity of the requesting person.
2. Fees will be itemized using the attached detailed itemization form and will include:
 - a. Labor costs for the search, location, and examination of public records will be calculated using the hourly wage of the Library's lowest paid employee capable of conducting the search, location, and examination, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Library's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - b. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material will be calculated using the hourly wage of the Library's lowest paid employee capable of conducting the review and separation and deletion of exempt from nonexempt material, whether they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial

increments rounded down. The hourly wage will be based on the Library's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.

c. Non-paper physical media costs will be calculated using the actual and most reasonably economical cost of computer discs, computer tapes, and other digital and similar media provided by the Library.

d. Duplication and publication costs will be calculated using the actual total incremental cost of necessary duplication or publication of a public record, not including labor. The actual and incremental cost, calculated per sheet, shall be charged and will not exceed 10 cents per sheet of paper for letter or legal size paper. The Library shall use the most economical means available for making copies, including the use of double-sided printing, if cost-saving and available. The Library will not charge a fee for duplication costs of less than \$1.00.

e. Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on non paper physical media or through electronic means, will be calculated using the hourly wage of the Library's lowest paid employee capable of duplicating or publishing the public records, whether they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Library's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.

f. Actual costs of mailing using a reasonably economical and justifiable manner.

3. No Library employee shall agree to work overtime or include overtime wages in the labor costs described in these procedures and guidelines.
4. If a requester submits an affidavit of indigency, the first \$20.00 of a fee will be waived. A requesting person must include a statement that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration. Other than \$20.00 for cases of indigency, no Library employee shall waive a fee or any part of a fee without authorization from the FOIA Coordinator. Labor costs for monitoring an inspection of original records will be calculated using the hourly wage of the Library's lowest paid employee capable of monitoring the inspection. Labor costs for monitoring an inspection will not be charged for the first hour. The hourly wage will be based on the Library's payroll records for the applicable fiscal year. Note: Section 3(3) of the FOIA, MCL 15.233(3), provides, in pertinent part, that "[a] public body shall protect public records from loss,

unauthorized alteration, mutilation, or destruction.”

5. If a statute authorizes the sale or production of public records to the public for a specified fee or if a fee for production of public records is otherwise set by statute, the Library will charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.
6. The Library will not charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material that will take less than one hour. If the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material will take more than one hour, a fee will be charged in accordance with this procedure pursuant to section 4 of the FOIA, MCL 15.234. The hourly wage will be based on the Library’s payroll records for the applicable fiscal year.
7. If the FOIA Coordinator knows or has reason to know that all or a part of the requested information is available on the Library’s website, the Library shall notify the requestor in its written response and shall include the website address in that response. The FOIA Coordinator shall separate the requested public records available on the website from those that are not available, and shall inform the requestor of the additional charge to receive copies of what is available on the website.

G. Deposit Requirements.

If the Library estimates a fee to process a FOIA request greater than \$50.00, the Library will require a good-faith deposit from the requestor before providing the public records to the requestor. The deposit shall not exceed 1/2 of the total estimated fee. Any written notice containing a notice of a deposit shall also contain a best efforts estimate by the Library regarding the time frame after a deposit is received that it will take the Library to provide the public records to the requestor. The time frame estimate is not binding upon the Library, but the Library shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance.

If the requestor has made a previous request under FOIA for which the Library has not been paid in full the total amount for copies of records requested, the Library may require, under conditions set forth in MCL 15.234(11), a 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.

H. Appeals of Fees and Disclosure Determinations.

If the Library charges what the requestor believes to be an excessive fee or denies all or part of a request, the requestor may submit to the Houghton Lake Public Library Board, as the governing body of the Library, a written appeal that specifically states the word

“appeal” and identifies the basis for which the fee should be reduced or the nondisclosure determination should be reversed. The Library Board shall designate the FOIA Coordinator to receive the written appeal and to immediately notify the head of the Library Board of its receipt.

I. Review of Fees and Disclosure Determinations.

Under section 10(3) of the FOIA, MCL 15.240(3), the Library Board is not considered to have received a written appeal until the first regularly scheduled meeting of the Library Board following submission of the written appeal.

Should the Library Board decide to consult with the Library’s legal counsel on the appeal, it must comply with the time periods set forth in the FOIA for written responses as well as the provisions of the Michigan Open Meetings Act, 1976 PA 267, MCL 15.261 *et seq.*

J. Further Appeals Concerning Fee Reductions or Disclosure Determinations

A requestor may, within 180 days after the Library’s final determination to deny a request, commence a civil action in the circuit court to compel disclosure. Under section 10(4) of the FOIA, MCL 15.240(4), the “circuit court of the county in which the public record or an office of the public body is located has venue over the action.” Actions involving fee reductions must be filed within 45 days after receiving the notice of a required fee or the determination of an appeal to the Library Board.

SUMMARY OF CHARGES - HOUGHTON LAKE PUBLIC LIBRARY

Freedom of Information Act Response - If payment is required as indicated in the accompanying letter, requested information will not be released until the payment described in the FOIA Fee Itemization Forms (please see next page) is received. Please call the HLPL FOIA Coordinator or return this form if you decide you do not wish to receive this information.

FOIA FEE ITEMIZATION FORM HOUGHTON LAKE PUBLIC LIBRARY

Requestor's Name _____	Date of Request _____
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Estimate Fee	OR	Actual Fee
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Item Description	Hourly Rate ¹	Fringe Benefit % ²	Overtime Rate ³	No. of 15 minute increments ⁴	Total Charge
Locating/Retrieving Records	Hourly wage _____ x	1. ___ +/- =	\$ ___ =	⁵ \$ ___ /4 = \$ ___ x (Increments) =	\$ _____
Reviewing Records	Hourly wage _____ x	1. ___ +/- =	\$ ___ =	\$ ___ /4 = \$ ___ x (Increments) =	\$ _____
Redacting Records	Hourly wage _____ x	1. ___ +/- =	\$ ___ =	\$ ___ /4 = \$ ___ x (Increments) =	\$ _____
Copying/Duplicating Records ⁶	Hourly wage _____ x	1. ___ +/- =	\$ ___ =	\$ ___ /4 = \$ ___ x (Increments) =	\$ _____
Contracted Labor Costs-Redaction	⁷ Hourly wage _____ x	N/A	N/A	\$ ___ /4 = \$ ___ x (Increments) =	\$ _____
Name of contracted person or firm if applicable: _____				Subtotal Labor Costs	\$ _____

Copying Cost of Paper Copies ⁸				
Letter(8 1/2 x 11) paper @\$0.10 each ⁹	Legal(8 1/2x14) paper @ \$0.10 each	Size _____ paper at \$0. _____ each	Size _____ paper at \$0. _____ each	Total Charge
No. of sheets ___ x \$0.10 = \$ _____	No. of sheets ___ x \$0.10 = \$ _____	No. of sheets ___ x \$0.10 = \$ _____	No. of sheets ___ x \$0.10 = \$ _____	\$ _____

Mailing Cost					
Cost of Packaging	Postage Cost	Cost of Delivery Confirmation	Special Shipping Cost	Insurance Cost	Total Charge
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

Nonpaper Physical Media			
USB Flash Drives	Computer Discs	Other Digital Media	Total Charge
\$ _____ x number used = \$ _____	\$ _____ x number used = \$ _____	\$ _____ x number used = \$ _____	\$ _____

Qualified for \$20 Reduction? If yes, subtract \$20. (\$ _____)

TOTAL FEE = \$ _____

If estimated fee is over \$50, the Library shall charge a deposit of 50% of the estimated fee. Subtract any good-faith deposit received.	Amount of Deposit \$ _____	Paid ? Y / N
		(\$ _____)

Reduction amount due to untimely response by Library: 0.5% of fee x _____ days late = _____ reduction.	(\$ _____)
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TOTAL DUE = \$ _____

¹ The hourly rate shall not be more than the hourly wage of the lowest-paid staff member capable of performing the labor in the particular instance, who may not be the lowest paid member of the library staff.

² The Library will add up to 50 percent to the applicable labor charge amount to cover or partially cover the cost of fringe benefits; 100 percent of fringe benefit costs will be added to the applicable labor charge if a requestor stipulates that requested website records must be provided in a paper format or in a specific form of electronic media. In either case, the Library shall not charge more than the actual cost of fringe benefits.

³ Overtime rates shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor.

⁴ In general, labor cost shall be estimated and charged in increments of 15 minutes, with all partial time increments rounded down. (See note 6 for exception.)

⁵ Divide the resulting hourly wages(s) by four to determine the charge per 15-minute increment.

⁶ Labor costs for copying/duplicating records may be estimated and charged in time increments of the Library's choosing, with all partial time increments rounded down.

⁷ This amount shall not exceed an amount equal to six times the state minimum hourly wage rate, which is

⁸ The Library shall utilize the most economical means available for making copies, including using double-sided printing.

⁹ The fee shall not exceed 10 cents per sheet of paper for copies made on 8 1/2 x 14 paper.

**Houghton Lake Public Library's Written Public Summary
of the Library's Freedom Of Information Act
Procedures and Guidelines**

Library documents and records shall be available to the public in accordance with the Michigan Freedom of Information Act, MCL 15.231 *et seq*, ("FOIA"). Costs associated with responding to a request will be charged to the requester. Some materials may also be available on the Library's website at <http://www.hlpl.org>.

A. How to submit written requests.

FOIA requests to the Library can be sent by email to: staff@hlpl.lib.mi.us
Add in the subject line: **ATTN: FOIA Coordinator/Library Director**

Or, Mail to:
Houghton Lake Public Library
Attn. FOIA Coordinator/Library Director
4431 W. Houghton Lake Dr.
Houghton Lake, MI 48629

Requests should include a name, phone and fax number and mailing address.

B. How to understand the Library's written responses to FOIA requests.

The Library has several options when responding to written requests for public records. It can grant the FOIA request, deny the request, grant it in part and deny it in part, or take one 10 business day extension. After 10 business days pass, the Library has to respond with one of the other options.

If the request is granted or granted in part and denied in part, the Library can also charge a fee to process the request. There is no fee for requests that do not require the Library to incur costs above the threshold set in its Procedures and Guidelines. Fees are calculated using its procedures and guidelines, and you will receive a detailed itemization of the fee. The Library may require you to pay a good-faith deposit before it processes your request. After you pay any deposit and final balance due, the Library will produce records in its possession that fall within the scope of your request and that legally may be disclosed to the public. The Library may also notify you that some of the records you have requested are available on its website.

If the request is denied, the Library will inform you of the basis for its denial in a written notice. Reasons the Library may deny a request include:

1. You did not describe the records you have requested well enough and the Library cannot determine what you are asking for;
2. The Library has determined that it does not have records that respond to your request in its possession;
3. The records do not exist (the Library is not required to create new public records to satisfy a request, nor make a summary or compilation of information); or
4. The records you have requested are exempt from public disclosure under FOIA or another state or federal statute or regulation, for

example, the Michigan Library Privacy Act, MCL 397.601 *et seq.*

If all or part of your request is denied, the Library will inform you of your right to appeal its denial to the Houghton Lake Public Library Board and/or to file a lawsuit against the Library in its written response.

C. Deposit requirements

If the Library estimates a fee to process a FOIA request greater than \$50.00, the Library will require a good-faith deposit from you before providing the public records. The deposit shall not exceed 1/2 of the total estimated fee. Any written notice containing a notice of a deposit shall also contain a best efforts estimate by the Library regarding the time frame after a deposit is received that it will take the Library to provide the public records. The time frame estimate is not binding upon the Library, but the Library shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance.

If the total amount charged in a previous records request has not been paid in full, the Library may require a deposit of up to 100% of the estimated fee before a full search of records for any subsequent request.

D. Fee calculations.

The FOIA permits the Library to charge a fee to process FOIA requests using a form to give you a detailed itemization of the costs involved. The Library may charge for the following costs:

- A. the costs of labor for the search, location, and examination of public records;
- B. the costs of labor for the review of public records and separation and deletion of exempt from nonexempt material;
- C. the cost of non-paper physical media;
- D. the cost of duplication and publication of public records;
- E. the costs of labor for the duplication or publication of public records;
- F. the actual cost of mailing public records.

The first \$20.00 of a fee will be waived if a requester submits an affidavit of indigency. The requester must include a statement that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

E. Avenues for challenge and appeal.

If the Library charges a fee that you feel is too high, or denies all or part of a request, you may submit to the Library Board a written appeal that specifically states the word "appeal" and identifies the basis for which the fee should be reduced or the nondisclosure determination should be reversed. Written appeals may be sent to the email address or mailing address listed above and will be forwarded to the Houghton Lake Public Library Board or the person designated by the Library Board to respond to written appeals.

F. FOIA Procedures and Guidelines

The Houghton Lake Public Library maintains a website at <http://www.hlpl.org>. The Library's FOIA Procedures and Guidelines and Public Summary are available at no charge through this website. This link may be provided in lieu of providing paper copies in response to a written request, MCL 15.234(4).

SAMPLE FOIA REQUEST FORM

[Your Name]
[Street Address]
[City, ST ZIP Code]

[Date]

[Name of FOIA Coordinator/Library Director]
Houghton Lake Public Library
4431 W. Houghton Lake Dr
Houghton Lake, MI 49829

Dear **[FOIA Coordinator/Library Director]**:

Under the Michigan Freedom of Information Act § 15.231 et seq., I am requesting an opportunity to inspect or obtain copies of public records that [Describe the records or information sought with enough detail for the public agency to respond. Be as specific as your knowledge of the available records will allow. But it is more important to describe the information you are seeking.]

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$_____. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of _____ [Here, you can identify yourself as a representative of the news media if applicable and state that your request is related to news gathering purposes.] This information is not being sought for commercial purposes.

The Michigan Freedom of Information Act requires a response to this request within five days. If access to the records I am requesting will take longer than this amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

[Your Name]
[Your Phone number]