

**COLUMBIA TOWNSHIP**  
**53053 CR 388, P.O. Box 323, Grand Junction, MI 49056**  
**269-434-6227**  
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**WRITTEN PUBLIC SUMMARY OF FOIA PROCEDURES & GUIDELINES**

Consistent with Public Act 563 of 2014 amending the Michigan Freedom of Information Act (FOIA), the following is the Columbia Township Written Public Summary of its FOIA Procedures and Guidelines.

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

- o Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by Columbia Township must be submitted in writing.
- o A request must sufficiently describe a public record so as to enable the Township to find it.
- o No specific form to submit a written request is required. However a FOIA Request form for your use and convenience is available on the Township's website at [www.columbiatwp.com](http://www.columbiatwp.com).
- o Written requests can be made in person by delivery to any Township office in person or by mail.
- o A request may also be submitted by e-mail. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line and be sent to [clerk@columbiatwp.com](mailto:clerk@columbiatwp.com).

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

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

- o Within 5 business days of receipt of a FOIA request the Township will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day. The Township will respond to your request in one of the following ways:
  - Grant the request.
  - Issue a written notice denying the request.
  - Grant the request in part and issue a written notice denying in part the request.
  - Issue a notice indicating that due to the nature of the request the Township needs an additional 10 business days to respond.
  - Issue a written notice indicating that the public record requested is available at no charge on the Township's website.
- o 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, 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 fee deposit requirements?**

- o If the Township has made a good faith calculation that the total fee for processing the request exceeds \$50, 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 following receipt by the Township of your deposit.
- o 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 before it begins to search for the public record for any subsequent written request 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 Township notified the individual in writing that the public records were available for pickup or mailing;
  - the individual is unable to show proof of prior payment to the Township; and
  - the Township has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- o The Township will not require the 100% estimated fee deposit if any of the following apply:
  - the person making the request is able to show proof of prior payment in full to the Township;
  - the Township is subsequently paid in full for all applicable prior written requests; or
  - 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?**

- o A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high cost 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.

- o The Michigan FOIA statute permits the Township to assess and collect a fee for six designated processing components. The Township may charge for the following costs associated with processing a request:
  - Labor costs associated with searching for, locating and examining a requested public record.
  - Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
  - The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media.
  - The cost of duplication or publication, not including labor, of paper copies of public records.
  - Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the internet.
  - The cost to mail or send a public record to a requestor.
  
- o Labor Costs
  - Labor costs for searching, locating and examining a requested public record and labor costs for the review of a record to separate and delete information exempt from disclosure from information which is disclosed is estimated and charged in 15 minute increments with all partial time increments rounded down.
  - Labor costs for the duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the internet or other electronic means when asked for by the requester, will be charged in 6 minute increments, with all partial time increments rounded down.
  - 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, regard less of who actually performs work.
  - Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
  
- o Non-paper 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 only be assessed if the Township has the technological capability necessary to provide the public record in the requested non-paper physical media format.

- o Paper Copies
  - Paper copies of public records made on standard letter (8 ½ x 11 ) or legal (8 ½ x 14) sized paper 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 may provide records using double-sided printing, if cost-saving and available.
- o Mailing Costs
  - The cost to mail public records will use a reasonably economical and justified means.
  - The Township may charge for the least expensive form of postal delivery confirmation.
  - No cost will be made for expedited shipping or insurance unless requested.

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

- o The Township may waive or reduce the fee associated with a request when the Township determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public or the cost to collect the fee would be counterproductive.
- o The Township will waive the first \$20.00 of the processing fee for a request if you submit an affidavit 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 indigency.
- o You are not eligible to receive the \$20.00 waiver if you:
  - have previously received discounted copies of public records from the Township twice during the calendar year; or
  - are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- o An affidavit is sworn statement. For your convenience the Township has provided an Affidavit of Indigency form for the waiver of FOIA fees on its website.
- o The Township will waive the first \$20.00 of the processing fee for an nonprofit organization which meets all of the following conditions:
  - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;

- the request is made directly on behalf of the organization or its clients;
- the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
- the request is accompanied by documentation of the organization's designation by the State.

## **6. How may I challenge the denial of a public record or an excessive fee?**

### **Appeal of a Denial of a Public Record**

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the Township Board by filing a written appeal of the denial with the office of the Township Supervisor.

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. You may use the Township FOIA Appeal Form (To Appeal a Denial of Records), which is available on the Township's website: [www.columbialwp.org](http://www.columbialwp.org).

The Township Board is not considered to have received a written appeal until the first regularly scheduled Township Board meeting following submission of the written appeal. Within 10 business days of receiving the appeal the Township Board will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- Reverse the disclosure denial in part and uphold the disclosure denial in part.

Whether or not you submitted an appeal of a denial to the Township Board, you may file a civil action in County Circuit Court within 180 days after the Township's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the Township acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1000.

### **Appeal of an Excess 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, you must first appeal to the Township Board by filing a written appeal for a fee reduction to the office of the Township Supervisor.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. You may use the Township FOIA Appeal Form (To Appeal an Excess Fee), which is available at the Township Hall and on the Township's website: [www.columbiatwp.com](http://www.columbiatwp.com).

The Township Board is not considered to have received a written appeal until the first regularly scheduled Township Board meeting following submission of the written appeal. Within 10 business days after receiving the appeal, the Township Board will respond in writing by:

- Waiving the fee;
- Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issue 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.

Within 45 days after receiving notice of the Supervisor's determination of the processing fee appeal, you may commence a civil action in Van Buren County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the Township acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.00.

**Need more details or information?**

This is only a summary of Columbia Township's FOIA Procedures and Guidelines. For more details and information, copies of Columbia Township's FOIA Procedures and Guidelines are available at no charge at the Township office and on the Township's website, [www.columbiatwp.com](http://www.columbiatwp.com)



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**FREEDOM OF INFORMATION PROCEDURES & GUIDELINES**

**PURPOSE:** To establish procedures and guidelines governing the release of public records, pursuant to Public Act 442 of 1976.

**SCOPE:** This policy establishes a process and procedures for the release of public documents, establishes a policy to recover costs associated with requests, and establishes a procedure for appeals.

**POLICY:**

Preamble: Statement of Principles

It is the policy of the **Columbia Township** that all persons, except those who are serving a sentence of imprisonment, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they fully participate in the democratic process.

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

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

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

**Section 1: General Policies**

The Township Board acting pursuant to the authority at MCL 15.236 designates the Township Clerk as the FOIA Coordinator. He or she is authorized designate other Township staff to act on his or her behalf to accept and process written requests for the Township's public records and approve denials.

If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail and delivered to a 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 in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.



The FOIA Coordinator shall review Township spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with Township staff to develop administrative rules for handling spam and junk-mail so as to protect systems from computer attacks which may be imbedded in an electronic FOIA request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA 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 is not obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

A copy of all written requests for public records received by the Township shall be maintained for a period of at least one year. The retention of such requests shall be the responsibility of the FOIA Coordinator.

The Supervisor is designated by the Township Board as the head of the public body for the purpose of responding to appeals of a denial of all or portion of a public record and appeals of processing fees. In the event of the absence or disability of the Supervisor, the Treasurer shall act in the place of the Supervisor.

Any subpoena from any court, attorney, or any other person which requests the production of any Township record shall immediately be forwarded to the Township Attorney and falls outside the scope of this Policy.

## **Section 2: Requesting a Public Record**

A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by Columbia Township must do so in writing. The request must sufficiently describe a public record so as to enable Township personnel to identify and find the requested public record.

No specific form to submit a request for a public record is required. However the FOIA Coordinator may make available a FOIA Request Form for use by the public.

Written requests for public records may be submitted in person or by mail to the Township office. Requests may also be submitted electronically by facsimile and e-mail. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, electronically mailed or otherwise provided to him or her 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 who makes a verbal, non-written request for information believed to be available on the Township's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

The FOIA Coordinator may implement administrative rules permitting verbal requests for public records in designated instances. Verbal requests for public records not available on the Township's website are not considered to fall within the scope of the FOIA statute; shall only be responded to where the record in

question will be made available or released in its entirety; and when waiver of the requirement of a written request and release of the record, in the particular instance, serves the best interests of the requesting party, the general public and the Township. In the event that the public record sought by a verbal request will not be released its entirety, the requesting party shall be advised to file a written request.

Any request to review and/or receive copies of any portion of a personnel file maintained or possessed by the Township must be made in writing. This policy does not affect the right of current or former Township employees to review or receive copies of documents from their own personnel files.

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

### **Section 3: Processing a Request**

Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request the Township will issue a response, If a request is received by facsimile, e-mail or other electronic transmission, the request is deemed to have been received on the following business day. The Township will respond to the request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating that due to the nature of the request the Township needs an additional 10 business days to respond. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the Township's website.

The FOIA Coordinator, or such other individuals as he or she may designate, shall have exclusive authority to deny any FOIA request, either entirely or in part.

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request. A copy of these Procedures and Guidelines along with its Written Public Summary shall be provided to the requestor with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and its Written Public Summary are maintained on the Township's website, then a website link to those documents may be provided in lieu of providing paper copies.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If based on a good faith calculation by the Township, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, the Township will require a good-faith deposit before processing the request.

In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the 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 will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section I of the FOIA.

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

An explanation as to why a requested public record is exempt from disclosure; or

- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the 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; and
- An explanation of the person's right to submit an appeal of the denial to either the office of the Supervisor or seek judicial review in the Van Buren County Circuit Court; and
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well as actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator or his or her designee.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the time lines described in this Section.

The Township shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect Township records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal Township operations,

The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

#### **Section 4: Fee Deposits**

If the fee estimate to provide the requested public records is expected to exceed \$50.00 based on a good, faith calculation by the Township, the requester will be asked 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 fully paid the Township 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 notified the individual in writing that the public records were available for pickup or mailing;
- the individual is unable to show proof of prior payment to the 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 if any of the following apply:

the person making the request 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**

Consistent with the authority granted by statute, it is the intent of the Township to charge a fee for a public record search, for the necessary copying of 11 public record for inspection, or for providing a copy of a public record so that its general fund and departmental budgets are not unduly burdened by the costs associated with processing FOIA requests.

A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Township because of the nature of the request in the particular instance, and the Township specifically identifies the nature of the unreasonably high costs.

The following factors shall be used to determine an unreasonably high cost to the Township:

- The particular request incurs costs greater than incurred from the typical or usual FOIA request received by the Township.
- Volume or size of the public record requested
- Whether the amount of time spent to search for, examine, review or separate exempt from non-exempt information in the record requested exceeds 15 minutes.
- Whether public records from more than one Township department or various Township offices is necessary to respond to the request.

- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The Township may charge for the following costs associated with processing a FOIA request:

- Labor costs directly associated with searching for, locating and examining a requested public record, if the failure to charge a fee results in unreasonably high costs to the Township.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed, if the failure to charge a fee results in unreasonably high costs to the Township.
- The actual cost of computer discs, computer tapes or other digital or similar media.
- The cost of duplication of publication, not including labor, of paper copies of public records.
- The cost of labor associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requestor,
- The actual cost of mailing or sending a public record, including the least expensive form of postal delivery confirmation; as well as the cost of expedited shipping or insurance when such is asked for by the requestor.

Labor costs will be calculated based on the following requirements:

- Labor costs directly associated with searching for, locating and examining a requested public record and labor costs associated with a review of a record to separate and delete information exempt from disclosure from information which is disclosed will be estimated and charged in 15 minute increments with all partial time increments rounded down.
- Labor costs associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requestor, will be charged in 6 minute increments with all partial time increments rounded down.
- 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.
- Labor costs will 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 until agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disk, 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.
- In order to ensure the integrity and security of the Township's technological infrastructure, the Township will procure any requested non-paper media and will not accept non-paper media from the requestor.

The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½x11) or legal (8 ½ x 14) sized paper 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 may provide records using double-sided printing, if cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The Township may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless requested.

If the FOIA Coordinator does not respond to a written request in a timely manner, the following shall be required:

- Reduce the labor costs by 5% for each day the Township exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
  - The late response was willful and intentional.
  - The written request, within the first 250 words of the body of a letter facsimile, e-mail or e-mail attachment conveyed a request for information.
  - The written request included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy" or a recognizable misspelling of such, or legal code reference to MCL 15. 231 et seq or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form

## **Section 6: Waiver of Fees**

Absent a waiver by the FOIA Coordinator in whole or in part, all charges associated with processing a FOIA request shall be paid in full before the release of any public records. The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because such can be considered as primarily benefitting the general public or the cost to collect the fee would be counterproductive.

The FOIA Coordinator in his or her sole discretion may waive the first \$20 of any processing fee.

In determining whether the general public is primarily benefitted, the FOIA Coordinator shall consider the following factors, none of which shall be determinative:

- whether the public record being disclosed serves the public policy purposes set forth at Section I of the FOIA;
- whether the release primarily serves a private or commercial purpose;
- whether the release implicates the rights of third persons;
- whether waiver of the fee is in the best interest of the Township; and
- the manner in which similar requests have been treated.

The Township will waive the first \$20 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- indigent and receiving specific public assistance; or
- if not receiving public assistance stating facts demonstrating an inability to pay because of indigency.

An individual is not eligible to receive the waiver if:

- the requestor has previously received discounted copies of public records from the Township twice during the calendar year; or
- the requester requests information in connection with other persons who are offering or providing payment to make the request.

The affidavit shall be a sworn statement made under the penalty of perjury. The FOIA Coordinator may make a fee Waiver Affidavit Form available for use by the public.

The Township will waive the first \$20 of the processing fee for a request from a nonprofit organization designated by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 200 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

- is made directly on behalf of the organization or its clients;
- is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931; and
- is accompanied by documentation of its designation by the State.

### **Section 7: Appeal of a Denial of a Public Record**

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial directed to the Supervisor. 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. Upon receipt a copy of the appeal, a written report and recommendation from the Township Attorney shall be distributed to all members of the Township Board.

Within 10 business days of receiving the appeal the Supervisor will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reversing the disclosure denial in part and upholding the disclosure denial in part.
- Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the Supervisor may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal.

Any exemption to the release of requested public records shall be narrowly construed and the burden shall be upon the FOIA Coordinator to demonstrate that the denial of information is justified and should be upheld.

The Supervisor shall provide a copy of his or her written response to the appeal to the other members of the Township Board, and file a copy with the Clerk for public inspection.

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

If the court determines that the public record is not exempt from disclosure, the court will award the appellant reasonable attorneys' fees, cost and disbursements. If the court determines that the appellant prevails only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs and disbursements.

If the court determines that the Township arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages in the \$1,000.



## **Section 8: Appeal of an Excessive FOIA Processing Fee**

If a requestor believes that the fee or the good faith deposit charged by the Township to process a FOIA request exceeds the amount permitted by state law, he or she must first submit a written appeal for a fee reduction directed to the Supervisor. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Mayor will respond in writing by:

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

The Supervisor shall provide a copy of his or her written response to the appeal to the other members of the Township Board, and file a copy with the Clerk for public inspection,

Within 45 days after receiving notice of the Supervisor's determination of a fee appeal, a requestor may commence a civil action in Van Buren County Circuit Court for a fee reduction. If a civil action is filed appealing the fee, the Township is not obligated to process the request for the public record until the court resolves the fee dispute.

If the court determines that the Township required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible amount. If the appellant in the civil action prevails by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements.

If the court determines that the Township has acted arbitrarily and capriciously by charging an excessive fee, the court shall also award the appellant punitive damages in the amount of \$500.

## **Section 9: Conflict with Prior FOIA Policies and Procedures; Effective Date.**

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by the Township Board these Procedures and Guidelines are controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the Township Board, and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the Township Board of any change these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015.

**Section 10: Appendix of Columbia Township FOIA Forms.**

The FOIA Coordinator is authorized to develop those forms necessary or convenient to process FOIA requests, including, but not limited to the following:

- Request Form
- Notice to Extend Response Time Form
- Notice Of Denial Form
- Detailed Itemization of Fees Form
- Appeal of Denial of Records Form
- Appeal of Fee Form

**EFFECTIVE DATE: July 1, 2015**

Records Located on Website

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

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

If the township has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form, including digital media, the township must provide the public records in the specified format (if the township has the technological capability) but may use a 1.5 multiplier greater than the 50%, not to exceed the actual costs of providing the information in the specified format.

Request for Duplication of Records on Township Website

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

Requestor's Signature

Date

Overtime Labor Costs

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

Consent to Overtime Labor Costs

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

- 1. O Labor to copy/duplicate
- 2. D Labor to locate
- 3a. D Labor to redact
- 3b. D Contract labor to redact
- Gb. D Labor to copy/duplicate records already on township's website

Requestor's Signature

Date

Request for Discount: Indigent

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

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

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

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

Office Use:  Affidavit Received  Eligible for Discount  Ineligible for Discount

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

Date:

Requestor's Signature;

Request for Discount: Nonprofit Organization

A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act, if the request meets ALL of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
- (ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
- (iii) Is accompanied by documentation of its designation by the state, if requested by the township.

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

I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its client and is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931:

Date:

Requestor's Signature: