PIGEON DISTRICT LIBRARY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES

Approved: June 25, 2015

From here on the "Pigeon District Library" may be referred to as "PDL" or "Library".

Preamble: Statement of Principles

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

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

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

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

Section 1: General Policies

The Library Board acting pursuant to the authority at MCL 15.236 designates the Library Director as the FOIA Coordinator. He or she is authorized designate other Library staff to act on his or her behalf to accept and process written requests for the Library'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 Library 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 Library spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall take great care to protect library computer systems from attacks that 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 Library is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other Library staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all written requests for public records received by the Library on file for a period of at least one year.

Section 2: Requesting a Public Record

A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by PDL must do so in writing. The request must sufficiently describe a public record so as to enable library 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 PDL. 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 other otherwise provided to him or her in lieu of paper copies. The Library 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 PDL 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 Library's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

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

Section 3: Processing a Request

Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request the Library 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 Library 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 Library 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 Library's website.

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request. A copy of these Procedures and Guidelines shall be provided to the requestor with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and its Written Public Summary are maintained on the Library'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 Library, 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 Library 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 Library to process the request and also provide a best efforts estimate of a time frame it will take the Library to provide the records to the requestor. The best efforts estimate shall be nonbinding on the Library, but will be made in good faith and will strive to be

reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

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

An explanation as to why a requested public record is exempt from disclosure; or
A certificate that the requested record does not exist under the name or description
provided by the requestor, or another name reasonably known by the Library; 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 Mayor or seek judicial review in the Huron County Circuit
Court; and
An explanation of the right to receive attorneys' fees, costs, and disbursements as
well actual or compensatory damages, and punitive damages of \$1,000, should
they prevail in Circuit Court.
The Notice of Denial shall be signed by the FOIA Coordinator.

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

The Library 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 Library records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal Library operations.

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

Section 4: Fee Deposits

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation by the Library, the requestor will be asked to provide a deposit not exceeding on-half of the total estimated fee.

If a request for public records is from a person who has not fully paid the Library 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 Library's possession;
	the public records were made available to the individual, subject to payment, within the time frame estimated by the Library to provide the records if 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 Library; 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 following ap	Coordinator will not require an increased estimated fee deposit if any of the pply:
	the person making the request is able to show proof of prior payment in full to the Library; the Library 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 Village.

Section 5: Calculation of Fees

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

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

□ The particular request incurs costs greater than incurred from the typical or usual request received by the Library. See Bloch v Davison Community Schools, 2011 Mich App Lexis 771, 2011 WL 1564645

	Volume of the public record requested
	Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
	Whether public records from more than one Library department or various
	Library 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 Library	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.
	Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
	The actual cost of computer discs, computer tapes or other digital or similar media.
	The cost of duplication 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.
	The actual cost of mailing or sending a public record.
Labor costs	will be calculated based on the following requirements:
	All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down [†] .
	Labor costs will be charged at the hourly wage of the lowest-paid Library 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 Library 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 equestor; overtime costs will not be used to calculate the fringe benefit cost.
_	rovide records on non-paper physical media when so requested will be based ng requirements:
tl 	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 Library 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 Library's technological infrastructure, the Library will procure any requested non-paper media and will not accept non-paper media from the requestor
The cost to pro	ovide paper copies of records will be based on the following requirements:
1/ s	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-tandard sized sheets of paper will reflect the actual cost of reproduction. The Library may provide records using double-sided printing, if cost-saving available.
The cost to ma	ail records to a requestor will be based on the following requirements:
jı 	The actual cost to mail public records using a reasonably economical and ustified means. The Library may charge for the least expensive form of postal delivery onfirmation. No cost will be made for expedited shipping or insurance unless requested.
	Coordinator does not respond to a written request in a timely manner, the ll be required:
p	Reduce the labor costs by 5% for each day the Library exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the ollowing 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

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because such can be considered as primarily benefitting the general public.

The FOIA Coordinator will waive the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

indigen	nt and receive	ving spe	cific public	assistanc	e; or		
if not	receiving	public	assistance	stating	facts	demonstrating	ar
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 Library twice during the calendar year; or
the requestor requests information in connection with other persons
who are offering or providing payment to make the request.

An affidavit is sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

A nonprofit organization designated to by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 200 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

□ is made directly on behalf of the organization or its clients;

is	made	for	a r	reason	wholly	consistent	with	the	mission	and
pro	ovisio	ns of	tho	se law	s under	Section 93	1 of tl	ne M	ental He	alth
Co	de, Mo	CL 33	30.1	1931;						
is a	accom	oanie	d by	y docui	nentatio	n of its design	gnatio	n by	the State.	

Section 7: Appeal of a Denial of a Public Record

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial with the Library Board.** The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial.

Within 10 business days of receiving the appeal the 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.

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 Board may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal

Whether or not a requestor submitted an appeal of a denial to the Board, he or she may file a civil action in Huron County Circuit Court within 180 days after the Library'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 Library 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. Court shall also order that the public body pay a civil fine of \$1000 to the general fund of the State treasury.

^{**} If the head of the public body is a board or commission, it is not considered to have received a written appeal of either a denial or a fee amount until its first regularly scheduled meeting following the submission of the appeal. It then has 10 business days to respond to the appeal.

Section 8: Appeal of an Excessive FOIA Processing Fee^{††}

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

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

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

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

10

^{††} A public body does not have to provide for administrative fee appeals; if such is the case, the fee appeal is made directly to circuit court within 45 days of receiving notice of the required fee.

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 Library Board these Procedures and Guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the Library Board, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the Library 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 Library Board of any change these Policies and Guidelines.

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

Section 10: Appendix of Pigeon District Library FOIA Forms§§

Request Form
Denial Form
Waiver of Fee Form
Detailed Itemization of Fees Form
Appeal Form
Certification Form

FOIA Fee Itemization Form

(Effective July 1, 2015)

Component	Cost Calculations	Total
1. Labor	Enter the hourly wage of lowest paid employee capable of	
Costs -	performing the search, location and examination	
Search,	\$ per hour	
Location ,and		
Examination	Multiply the wage by the fringe benefit multiplier (maximum	
of Records*	of 50% of the hourly wage); OR, if the requested information	
	is available online and the requestor request the documents to	
	be provided in another format, the fringe benefit multiplier	
	may exceed 50% (not to exceed actual cost)	
	%	
	Multiply the hourly wage times the fringe benefit multiplier	
	\$ x 1 = \$	
	If stipulated by the requestor, add the hourly exerting wase	
	If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe	
	benefit costs)	
	\$+ = \$	
	Ψ Ψ	
	Divide the resulting hourly wage by four (4) to determine the	
	charge per fifteen (15) minute increment	
	\$ / 4 = \$	
	Number of 15 minute increments (partial time increments must	
	be rounded down) multiplied by the permitted rate	*
	x \$ = \$	\$
4 F. 1		
2. Employee Labor Costs	If performed by the public body's employee:	
- Redaction*	Enter the hourly wage of lowest poid ampleyee capable of	
- Redaction	Enter the hourly wage of lowest paid employee capable of performing the redaction	
	\$ per hour	
	φ ροι πουι	
	Multiply the wage by the fringe benefit multiplier (maximum	
	of 50% of the hourly wage); OR, if the requested information	
	is available online and the requestor request the documents to	
	be provided in another format, the fringe benefit multiplier	
	may exceed 50% (not to exceed actual cost)	
	%	
	Multiply the hourly wage times the fringe benefit multiplier	

	\$ x 1 = \$	
	If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)	
	\$+ = \$	
	Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment $$$ $/4 = $$	
	Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate x \$ = \$	\$
2 Control of a	If a sufarmed by Contracted Labor (Only requested if the	
2. Contracted Labor Costs - Redaction*	If performed by Contracted Labor (Only permitted if the public body does not employ a person capable of redacting the records as determined by the FOIA Coordinator):	
	Name of person or firm contracted:	
	Enter the hourly rate charged by the contractor (may not exceed six (6) times the State minimum wage (i.e. \$8.15x6=\$48.90) \$\ per hour	
	Divide the hourly rate by four (4) to determine the charge per fifteen (15) minute increment \$ / 4 = \$	
	Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate x \$ = \$	\$
3. Non-Paper	Actual and most reasonably economical cost of:	
Physical Media	Flash Drives \$ x number used = \$	
	Computer Discs \$ x number used = \$	
	Other Media \$ x number used = \$	\$
4. Paper Copies	Actual total incremental cost of duplication (not including labor) up to a maximum of 10 cents per page:	
	Letter paper (8 ½" x 11") number of sheets x \$0 = \$	

	Legal paper (8 ½" x 14")	
	number of sheets x \$0 = \$	
	Actual cost of other types of paper:	
	Type of Paper:	
	number of sheets x \$ = \$	
	Type of Paper:	
	number of sheets x \$ = \$	\$
	(NOTE: Must print double-sided if available and costs less.)	
5. Labor Cost	Enter the hourly wage of lowest paid employee capable of	
- Duplication	performing the duplication, copying, or transferring digital	
Copying, and	records to non-paper physical media	
transferring	\$ per hour	
records to		
non-paper	Multiply the wage by the fringe benefit multiplier (maximum	
physical	of 50% of the hourly wage); OR, if the requested information	
media	is available online and the requestor request the documents to	
	be provided in another format, the fringe benefit multiplier	
	may exceed 50% (not to exceed actual cost)	
	%	
	Multiply the hourly wage times the fringe benefit multiplier	
	\$ x 1 = \$	
	If stipulated by the requestor, add the hourly overtime wage	
	increment (but do not include in the calculation of fringe	
	benefit costs)	
	\$+ = \$	
	Divide the resulting hourly wage by to determine the	
	charge per () minute increment	
	\$ /4 = \$	
	(NOTE : May use any time increment for this category)	
	Number of minute increments (partial time increments must	
	be rounded down) multiplied by the permitted rate	
	x \$ = \$	\$
6. Mailing	Actual cost of mailing records in a reasonable and economical	-
V. IV.	manner:	
	Cost of mailing: \$	
	Cost of least expensive form of postal delivery confirmation:	
	\$	
	Cost of expedited shipping or insurance only if specifically	
	stipulated by the requestor:	

	\$	\$
	Subtotal	\$
Waivers and Reductions	Subtract any Fee Waiver or Reduction: \$20.00 for indigency or nonprofit organization as further described in the Public Body's procedures and guidelines. Any amount determined by the Public Body due to the search and furnishing of the Public Record determined to be in the public interest. \$ The reduction amount due to the late response of the Public Body. 5% of fee x days late =% reduction (maximum reduction is 50%)	-\$
Deposit	Subtract any good-faith deposit received: \$	-\$
	Total Due	\$