

RESOLUTION NO. # 91
FOR THE VILLAGE OF LAKEWOOD CLUB
MUSKEGON COUNTY
STATE OF MICHIGAN

**RESOLUTION TO SET FREEDOM OF INFORMATION ACT POLICY,
AND SET GUIDELINES,**

VILLAGE OF LAKEWOOD CLUB, MUSKEGON COUNTY, STATE OF MICHIGAN

At a regular meeting of the Village Board of the Village of Lakewood Club, County of Muskegon, State of Michigan, held in the Village Hall in said Village on the 12th day of July, 2023, at 6:00 pm, Eastern Daylight Time.

PRESENT: Members: President Robert Sikkenga, Trustees Debbie Houtteman, Tammy Verhoeven, Sarah Swanson, Rusty Morningstar, and Jared Semelbauer

ABSENT: Members: Trustee Mark Spencer

WHEREAS, pursuant to Public Act 563 of 2014, amending the Michigan Freedom of Information Act (FOIA), this Board has the authority to establish a "Freedom of Information Act Policy and Guidelines" for the Village of Lakewood Club; and

WHEREAS, guidelines for FOIA requests have not previously been established; and

WHEREAS, the Lakewood Club Village Board deems it to be in the public interest of Lakewood Club Village to establish the attached Procedures and Guidelines and a written Public Summary of FOIA procedures;

NOW THEREFORE, BE IT RESOLVED:

That the Village of Lakewood Club establishes written guidelines and procedures for Freedom of Information Act Requests, as attached.

The foregoing resolution offered by board member Jared Semelbauer and supported by board member Sarah Swanson.

AYES:

Members: President R. Sikkenga, Trustees D. Houutteman, T. Verhoeven, S. Swanson, R. Morningstar, and J. Semelbauer

NAYS:

Members: None

ABSENT:

Members: Trustee Mark Spencer

THE RESOLUTION WAS DECLARED ADOPTED this 12th day of July 2023.

Susan West
Susan West, Clerk

STATE OF MICHIGAN)
)ss.
COUNTY OF MUSKEGON)

I, the undersigned Clerk, being duly qualified and acting Clerk of the Village of Lakewood Club, County of Muskegon, and State of Michigan, do hereby certify the foregoing is a true and complete copy of a Resolution adopted by the Village Board of the Village of Lakewood Club at a meeting held on the 12th day of July 2023, the original of which Resolution is on file in the Clerk's Office.

IN WITNESS WHEREOF, I have here unto set my official signature this 12th day of July 2023.

Susan West
Susan West, Clerk



VILLAGE OF LAKEWOOD CLUB

FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

Preamble: Statement of Principles

It is the policy of the Village of Lakewood Club that all persons, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of the 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 Village of Lakewood Club'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 Village of Lakewood Club acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The Village of Lakewood Club 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 Village of Lakewood Club will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The Village of Lakewood Club's policy is to disclose public records consistent with and in compliance with state law.

Section 1: General Policies

The Village of Lakewood Club acting pursuant to the authority at MCL 15.236 designated the Village Clerk as the FOIA Coordinator. She is authorized to

designate other Village staff to act on her behalf to accept and process written requests for the Village's public records and approve denials.

If a request for a public record is received by fax or email, the request is deemed to have been received on the following business day. If a request is sent by email and delivered to a Village 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 may, in his/her/their discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The Village is not obligated to create a new public record or make a compilation of summary of information which does not already exist. Neither the FOIA coordinator nor other Village staff is 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 Village 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 the Village of Lakewood Club must do so in writing. The request must sufficiently describe a public record so as to enable Village personnel to identify and find the requested public records.

A request must include the requester's name, address, and contact information. If the requester is not an individual, the request must include the name, address, and contact information of the individual acting as the requester's agent. The address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or email address. This requirement does not apply to an individual who qualifies as indigent under Section 4(2)(a) of FOIA.

No specific form to submit a request for a public record is required. Written requests for public records may be submitted in person or by mail to the Village office. Requests may also be submitted electronically by fax and email. 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 them in lieu of paper copies. The Village 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 Village of Lakewood Club on a regular basis. A subscription is valid for up to six (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 Village'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 five (5) business days of receipt of a FOIA request the Village will issue a response. If a request is received by fax, email, or other electronic transmission, the request is deemed to have been received on the following business day. The Village will respond to the request in one of the following ways:

1. Grant the request;
2. Issue a written notice denying the request;
3. Grant the request in part and issue a written notice denying the request in part;
4. Issue a notice indicating that due to the nature of the request, the Village needs an additional ten (10) business days to respond. Only one such extension is permitted; or
5. Issue a written notice indicating that the public record requested is available at no charge on the Village'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 Village's website, the 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 the good faith calculation by the Village, 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 Village 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 Village to process the request and also provide a best efforts estimate of a time frame it will take the Village to provide the records to the requestor. The best efforts estimate shall be nonbinding on the Village, 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:

1. An explanation as to why a requested public record is exempt from disclosure; or
2. 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 Village; or
3. An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
4. An explanation of the person's right to submit an appeal of the denial to either the office of the Village President to seek judicial review in the Muskegon County Circuit Court; and
5. An explanation of the right to receive attorney's fees, costs, and disbursements as well as actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court; and
6. 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, 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 Village 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 Village records from loss, alteration, mutilation, or destruction and to prevent excessive interference with normal Village 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 based on a good-faith calculation by the Village, the requestor will be asked to provide a deposit not exceeding one-half (1/2) of the total estimated fee.

If a request for public records is from a person who has not fully paid the Village 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:

1. The final fee for the prior written request is not more than 105% of the estimated fee; and
2. The public records made available contained the information sought in the prior written request and remain in the Village's possession; and
3. The public records were made available to the individual, subject to payment, within the time frame estimated by the Village to provide the records; and
4. 90-days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing; and
5. The individual is unable to show proof of prior payment to the Village; and

6. 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 request an increased estimated fee deposit if any of the following apply:

1. The person making the request is able to show proof of prior payment in full to the Village; or
2. The Village is subsequently paid in full for the applicable prior written request; or
3. 365 days have passed since the person made the request for which full payment was not remitted to the Village.

When a deposit is required, the Village will provide a written notice of deposit to the requester. The Notice of Deposit will include the date by which the deposit must be received, which is 45 days from the date the requester received the notice. The Notice of Deposit is considered received by the requester three (3) days after it was sent, regardless of the means of transmission. If the Village has not received the deposit by the due date, and the requester has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requester.

Section 5: Calculation of Fees

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

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

1. The particular request incurs costs greater than incurred from the typical or usual request received by the Village;
2. Volume of the public record requested;
3. Amount of time spent to search for, examine, review, separate exempt from non-exempt information in the record requested;
4. Whether public records from more than one Village department or various Village offices is necessary to respond to the request;
5. The available staffing to respond to the request; and
6. Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

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

1. Labor costs directly associated with searching for, locating, examining a requested public record;
2. Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed;
3. The actual cost of computer discs, computer tapes, or other digital or similar media;
4. The cost of duplication of publication, not including labor, of paper copies of public records;
5. 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; and
6. The actual cost of mailing or sending a public record.

Labor costs will be calculated based on the following requirements;

1. All labor costs will be estimated and charged in 15-minute increments with all partial time increments rounded down. The cost of labor directly associated with duplication, publication or transferring records to non-paper physical media can be charged in time increments of the public body's choosing with all partial increments rounded down.
2. Labor costs will be charged at the hourly wage of the lowest paid Village

employee capable of doing the work in the specific fee category, regardless of who actually performs the work. If using contract or outside labor to separate and delete exempt material from non-exempt material, the public body must clearly note the name of person or firm who does the work and the total labor cost may not exceed an amount six (6) times the current state minimum hourly wage.

3. Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The Village 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.

4. 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:

1. 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;
2. This cost will only be assessed if the Village has the technological capability necessary to provide the public record in the requested non-paper physical media format;
3. In order to ensure the integrity and security of the Village's technological infrastructure, the Village 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:

1. Paper copies of public records made on standard letter (8½ x 11) or legal (8½ x 14) sized paper will not exceed \$0.10 per sheet of paper. Copies for nonstandard sized sheets of paper will reflect the actual cost of reproduction.
2. The Village may provide records using double-sided printing, if cost-saving and available.

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

1. Reduce the labor costs by 5% for each day the Village exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies;
 - a. The late response was will-full and intentional;
 - b. The written request, within the first 250 words of the body of a letter fax, email, or email attachment conveyed a request for information;
 - c. The written request included the words, characters, or abbreviations for "Freedom of Information", "information", "FOIA", "copy" or a recognizable misspelling of such, or legal code reference to MCL 15.231 et seq. or 1976 Public Act 442 on the front of an envelope or in the subject line of an email, letter, or fax cover page.
2. 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 fees in the public interest because such can be considered as primarily benefiting the general public. The FOIA Coordinator 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:

1. Indigent and receiving specific public assistance; or
2. 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:

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

An Affidavit is a 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:

1. Is made directly on behalf of the organization or its clients;
2. Is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931;
3. 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 with the Village President. 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 ten (10) business days of receiving the appeal the Village President will respond in writing by:

1. Reversing the disclosure denial;
2. Upholding the disclosure denial; or
3. Reverse the disclosure denial in part and uphold the disclosure denial in part.
4. 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 Village President may issue not more than one (1) notice of extension for not more than ten (10) business days to respond to the appeal.

Whether or not a requestor submitted an appeal of a denial to the Village President, they may file a civil action in Muskegon County Circuit Court within 180 days after the Village'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 attorney's 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 attorney's fees, costs and disbursements.

If the Court determines that the Village 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 amount of \$1,000.

Section 8: Conflict with Prior FOIA Policies and Procedures; Effective Date

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by Village Board or the Village Administration 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 Village Board or the Village Administration, 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 Village Board or the Village Administration, and to adopt such

administrative rules as 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 Village Board of any change to these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 12, 2023.

THE VILLAGE OF LAKEWOOD CLUB

COPY AND OTHER MEDIA FEES

Paper:

8 1/2 x 11 and 8 1/2 x 14	\$.10 per page ***set by State Law
11 x 17	\$.20 per page
Plotter paper/ink	\$1.00 per sheet (\$.38 page/\$.62 ink)

Other Media:

Flash Drive	\$6.00 (approximate purchase cost)
DVD/Disc	\$1.00 (approximate purchase cost)
Email of documents stored on computer	FREE
Outside vendor (Kinko's, printing shop)	exact charges charged by vendor

These fees are charged pursuant to the Freedom of Information Act, as amended, effective July 12, 2023 and the FOIA Procedures and Guidelines adopted by the Village of Lakewood Club on July 12, 2023.

Susan West
Village Clerk, Susan West

FOIA Fee Itemization Form

Component	Cost Calculations	Total
1. Labor Costs – Search, Location, and Examination of Records	<p>Enter the hourly wage of lowest paid employee capable of performing the search, location and examination \$ _____ per hour</p> <p>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) _____ %</p> <p>Multiply the hourly wage times the fringe benefit multiplier \$ _____ x 1. _____ = \$ _____</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) \$ _____ + _____ = \$ _____</p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment \$ _____ / 4 = \$ _____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate _____ x \$ _____ = \$ _____</p>	\$ _____
2. Employee Labor Costs – Redaction	<p>If performed by the public body's employee:</p> <p>Enter the hourly wage of lowest paid employee capable of performing the redaction \$ _____ per hour</p> <p>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) _____ %</p>	

	<p>Legal paper (8 1/2" x 14")</p> <p>number of sheets x \$0. = \$ _____</p> <p>Actual cost of other types of paper:</p> <p>Type of Paper: _____</p> <p>number of sheets _____ x _____ = \$ _____</p> <p>Type of Paper: _____</p> <p>number of sheets _____ x _____ = \$ _____</p> <p>(NOTE: Must print double-sided if available and costs less.)</p>	\$ _____
<p>5. Labor Cost - Duplication Copying, and transferring records to non-paper physical media</p>	<p>Enter the hourly wage of lowest paid employee capable of performing the duplication, copying, or transferring digital records to non-paper physical media</p> <p>\$ _____ per hour</p> <p>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)</p> <p>_____ %</p> <p>Multiply the hourly wage times the fringe benefit multiplier</p> <p>\$ _____ x 1. _____ = \$ _____</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)</p> <p>\$ _____ + _____ = \$ _____</p> <p>Divide the resulting hourly wage by _____ to determine the charge per _____ () minute increment</p> <p>\$ _____ / 4 = \$ _____</p> <p>NOTE: May use any time increment for this category)</p>	
	<p>Number of _____ minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p>_____ x \$ _____ = \$ _____</p>	\$ _____
<p>6. Mailing</p>	<p>Actual cost of mailing records in a reasonable and economical manner:</p> <p>Cost of mailing: \$ _____</p> <p>Cost of least expensive form of postal delivery confirmation:</p> <p>\$ _____</p> <p>Cost of expedited shipping or insurance only if specifically stipulated by the requestor:</p> <p>\$ _____</p>	\$ _____

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

Approved and implemented July 12 2023.