

EASTPOINTE HOUSING COMMISSION

FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

Subsection 4(4) of the Michigan Freedom of Information Act MCL 15.231, et seq (the “Act” or “FOIA”) requires that the Eastpointe Housing Commission (EHC) establish and publish procedures and guidelines for charging fees and costs for records provided pursuant to the Act. This policy is intended to be published and posted on the EHC’s website in order to meet the Act’s requirements.

Where not otherwise defined, the words and phrases contained in the policy shall have the meaning given to them by the Act. The FOIA coordinator, per MCL 15.236, is the Executive Director, who is authorized to designate other Housing Commission staff to act on his/her behalf in coordinating the responses to requests and processing appeals under the Act.

SECTION 1 FOIA RESPONSES

- 1A. A FOIA Request must be in writing and must clearly and specifically state the public record(s) requested from the department responsible for maintaining the requested record. Where a written request is received which does not specifically describe the public record(s) requested, the FOIA Coordinator or his/her designee may send notice to the person requesting a clarification of the request. Such notice, if sent, shall not be interpreted as a denial of the request.
- 1B. No specific form is required to submit a FOIA request, but the FOIA Coordinator may make a FOIA request form available for use by the public.
- 1C. Upon receipt of a FOIA request, the Housing Commission will review the request to determine whether any of the requested information can be found on the EHC website. Recognizing that this determination is the first step in time-sensitive process, it will be done as soon as possible, and the requestor will be provided with an itemized list of estimated FOIA response costs.
- 1D. If the request is granted or granted in part, payment must be made in full for all fees before the public record is made available. A copy of this policy shall be provided to the requestor at the time that a FOIA inquiry is made.
- 1E. To the extent a FOIA request is denied, the reason for denial (exemption, nonexistence) shall be stated in the response along with an explanation of the right to appeal to the Executive Director.
- 1F. The Housing Commission shall provide copies of any public records as provided for in the Act and shall retain a copy of all written requests and records provided in response thereto on file for a period of not less than one (1) year. In lieu of retaining un-redacted records provided in response to a FOIA request, the Housing Commission may retain a list of such records, which identifies the records with sufficient specific Commission to enable such records to be recovered if necessary. Redacted records shall be retained in their redacted forms.

- 1G. A person has the right to inspect a public record, unless exempted by law or court order. The Housing Commission may charge a fee for the necessary copying of a public record for inspection pursuant to subsection (491) of the Act. Original records must be protected from loss, unauthorized alteration, mutilation or destruction.
- 1H. The Act does not require the Housing Commission create records where none currently exist or to provide answers to questions. This exemption includes analyzing, compiling or summarizing existing information into a new format. Neither the Act nor these procedures and guidelines apply to the provision of "enhanced access" to information pursuant to Act NO. 462 of the Public Acts of 1996.
- 1I. A person serving sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a FOIA request and any such request will be denied.

SECTION 2. CHARGE IN CONNECTION WITH COPYING PUBLIC RECORDS

- 2A. FOIA requests may be subject to copying charges reflecting the actual costs of making copies in the most economical manner possible, including copier costs, paper costs and other supply costs. Executive Director shall determine an appropriate cost per page, subject to re-computation by individual departments where copying costs are demonstrated to differ from the costs determined by the Executive Director, but in no case may the fee for copying exceed 10 cents per sheet of 8 1/2 by 11 inch paper or 8 1/2 x 14 inch paper. Postage may also be charged as applicable and shall include the actual postage, as well as the cost for envelopes or other containers used for mailing copies of the public records requested.
- 2B. The Housing Commission may charge a fee for the labor involved in searching for, examining, reviewing and redacting a public record as permitted by the Act, where necessary to avoid unreasonably high costs to the Housing Commission, due to the nature of the request in the particular instance. In determining whether to charge a fee for labor, the FOIA Coordinator shall consider the anticipated costs to the Housing Commission, whether response costs exceed the usual cost to respond, the need for a devoted staff member to adequately respond to the particular request and similar factors, along with the requirements of Section 4 of the Act. The fee shall not depend on the identity of the party making the FOIA Request, except as set forth below.
- 2C. Where anticipated labor costs would exceed \$100.00, taking into account the downward rounding requirements of Section 4 of the Act (including the rule that there is no charge for any category of labor requiring less than 15 minutes), the costs to the Housing Commission shall be presumed to be unreasonably high. The estimated labor charges will be included and explained on the FOIA Itemization.
- 2 D. Where total fees and charges are reasonably anticipated to exceed \$50.00, the Housing Commission is further authorized to require that fifty percent of the estimated fees and charges be paid in advance of the performance of the work is authorized by the Act.

- 2E. Charges for labor costs shall be determined by using the wages of the lowest paid, full-time Housing Commission employee capable of retrieving the records requested.
- 2F. The Housing Commission has limited in-house capabilities for copying, photographs, microforms, maps or plans. If a person request that copies be made of these or large documents that must be copied off-site, the Executive Director will determine and assess those costs. If an employee of the Housing Commission is required to deliver and/or pick up the public records and/or copies of public records, the hours spent and applicable mileage (at Housing Commission rates) will also be applied to the charges to the person(s) requesting the public records.
- 2G. The FOIA Coordinator will handle all requests for discounts and/or exemptions from fees in accordance with the Act.
- 2H. Copy of fees and mailing charges for future issuances of regularly published records may be arranged through the FOIA Coordinator. A person can request that a public record which is regularly published be sent to them or they may be called for pick-up of the public record for a period of time, not to exceed six months unless extended.
- 2I. The Housing Commission requires that an escrow deposit of \$35.00 be paid when a request for copies of regularly published public records is made to the FOIA Coordinator. The Housing Commission will charge against the escrow for the costs of copying and postage. There will be no labor charges because the requested record is routinely developed. An account sheet of the number of copies and cost for mailing will be maintained by the department which maintains the record. If the escrow deposit is reduced to \$5.00 or less prior to the expiration of the request, the Housing Commission will contact the person for additional deposit or termination of the request.
- 2J. Any dispute over the amount charged in connection with a FOIA response may be appealed to the Executive Director, pursuant to MCL 15.240a, who may designate the FOIA Coordinator or his/her designee to review the matter. The Executive Director's ruling on the matter shall be considered final unless overturned by a court of competent jurisdiction.
- 2K. FOIA costs shall be paid at the time the records are released/reviewed.

SECTION 3

PROCEDURES FOR SEPARATION OF RECORDS

- 3A. If a request is made for an existing public record that includes information which is exempt from disclosure under the Act and information which is not exempt, the FOIA Coordinator or designee must separate the material and make the non-exempt material available for examination and /or copying. The material which had to be separated should be generally described, unless doing so would reveal the contents of the exempt information and thus defeat the purpose of the exemption. The labor costs associated with such procedures shall be treated in accordance with MCL 15.234.
- 3B. If an entire record is exempt from disclosure, the FOIA response will explain why the record is exempt.

SECTION 4.

EFFECT OF POLICIES STATED HEREIN

- 4A. The policies and procedures stated herein supersede all prior FOIA policies and procedures of the Housing Commission.
- 4B. The Housing Commission may adopt and maintain their own policies with regard to FOIA requests, so long as such policies are not inconsistent with these procedures and guidelines or the Act.
- 4C. Notwithstanding anything stated or implied herein or inferred here from, it is the Housing Commission's intent to fully comply with the Act. Any provision of these procedures and guidelines deemed to violate the Act is void, but the remaining policies and procedures not in violation of the Act shall remain in force and fully effective.

Adopted: December 16, 2015