

## FOIA POLICY

### LINCOLN TOWNSHIP PUBLIC LIBRARY FREEDOM OF INFORMATION ACT POLICY Public Act 442, as Amended Effective July 1, 2015

#### OVERVIEW

The Freedom of Information Act (Act 442 of the Public Acts of 1976) ("FOIA") provides for the public's access to certain public records of *public bodies*, which include Libraries. The Act also permits certain fees to be charged for producing documents associated with a request, and provides remedies and penalties for a Library's failure to comply with the Act. Amendments were made to the Michigan Freedom of Information Act, 1976 in 2014, which become effective on July 1, 2015.

Of particular note is a new provision in Section 4(4) that requires Libraries to establish by July 1, 2015, procedures and guidelines to implement these FOIA changes and to develop a written, "easily-understood" summary for the public that explain the changes.

The summary must be posted on public body's website (if there is one) and should be made available at no charge by the Library. Free copies must be provided "both in ...response to a written request and upon request by visitors at the public body's office." A website link may be supplied in response to a written request in place of paper copies.

A FOIA procedure summary must cover how:

1. to submit requests to the Library;
2. to understand the Library's written response to the requestor;
3. the fee is calculated and explain any deposit requirements; and
4. to challenge or appeal a decision by the Library with respect to the request.

Section 4(4) also now requires policies and guidelines to include the use of a "standard form for detailed itemization of any fee amount in the Library's responses to a written request that clearly lists and explains allowable charges for each of the following:

1. Labor costs for:
  - a. "searching for, locating and examining ...public records in conjunction with receiving and fulfilling a granted written request;"
  - b. the review of records necessary to separate and delete exempt from nonexempt information;
  - c. duplication, including making paper and digital copies (if requested and within the Library's capabilities).
2. Materials:
  - a. for duplication, not including labor (cost of paper);
  - b. provided on "non-paper physical media" such as CDs or flash drives (cost of media); and
  - c. of mailing (postage).

## **LINCOLN TOWNSHIP PUBLIC LIBRARY FREEDOM OF INFORMATION ACT SUMMARY**

The Michigan Freedom of Information Act provides for the public's access to certain public records held by the Lincoln Township Public Library (the "Library"). The Library has a Freedom of Information Act Policy that conforms to the requirements of the Act and provides more detailed information about the Library's compliance with the Act. A copy of the Policy is available electronically at <https://lincolntownshiplibrary.org/policies-documents/> or may be obtained by contacting the Library's Director/FOIA Coordinator:

Lincoln Township Public Library, Office of the Director  
2099 W. John Beers Road  
Stevensville, MI 49127  
Ph. 269-429-9575

An individual may submit a written request to the Director/FOIA Coordinator for the inspection and/or copying of public records held by the Library, which are not subject to an exemption.

Certain records are "exempted" from disclosure. For example:

- Information of a personal nature, where public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
- Records or information specifically described and exempted from disclosure by statute.
- Records of a public body's security measures designed to protect the security or safety of person or property.

The Director/FOIA Coordinator is responsible for addressing all FOIA requests and may charge fees for a request for public records that must be paid before records are inspected and/or copied. If a request is denied in whole or in part, the requestor may appeal the Director/FOIA Coordinator's decision.

Please refer to Policy for a detailed description of (1) how to make a request for public records; (2) the time frame for a response to a request by the Director/FOIA Coordinator; (3) fees you will be charged for a request, and under what circumstances a fee may be reduced; and (4) the appeal process for denial of a request.

### **LINCOLN TOWNSHIP PUBLIC LIBRARY FREEDOM OF INFORMATION ACT POLICY Public Act 442, Amended 2014, Effective July 1, 2015**

It is the policy of Lincoln Township Public Library (the "Library") to meet the requirements of the Michigan Freedom of Information Act (the "Act") which provides for public access to certain public records of public bodies, including libraries. This policy provides information about the proper way to request a record, the time frame for a response by the Library, and the appeal process for denied requests.

#### **I. FOIA Coordinator**

The Library Board of Directors appoints the Director of the Lincoln Township Public Library as the Freedom of Information Act ("FOIA") Coordinator. The FOIA Coordinator is responsible for accepting and

processing a person's requests for public records and for approving denials of requests for public records.

## **II. Definition of "Person"**

The Act applies to "persons," which means an individual, corporation, Limited Liability Company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in Michigan or any other state, or in a federal correctional facility.

## **III. Definition of Public record**

Public record means writing prepared, owned, used, in the possession of, or retained by the Library related to the performance of an official function, from the time it is created. Public record does not include computer software.

## **IV. Written Request**

A person may request public records from the Library by submitting a request *in writing* to the:

Director/FOIA Coordinator Lincoln Township Public Library  
Office of the Director  
2099 W. John Beers Road  
Stevensville, Michigan 49127

The request must identify the public record sufficiently to allow the Library to find the requested record. The Library will not respond to an oral request.

## **V. Response**

The FOIA Coordinator (or his or her designee) will respond in writing to requests within five (5) business days by granting a request for inspection or copying, issuing a written notice denying the request, granting the request in part and denying the request in part, or issuing a notice extending for up to 10 business days the period in which to respond. See attached letters.

## **VI. Failure to Respond**

If the Library fails to respond to a request within the deadline the fee that can be charged will be reduced by 20% of the original fee each day after the deadline that the record or copy is not made available. No fee will be charged for a record produced five days after the deadline. No charge reduction is required if a deposit remains unpaid or if a deadline is appropriately extended.

## **VII. Exemptions**

The FOIA permits the Library to exempt certain public records from disclosure. The FOIA Coordinator will review the request to determine if any exemptions apply and may request assistance from the Library's Attorney regarding the applicability of any exemptions.

## **VIII. Appeal**

If the Library denies a request in whole or in part, the requesting person can submit a written appeal of the decision to the Library Board, or can begin an action in circuit court to compel the Library to disclose the public records:

Lincoln Township Public Library Board  
2099 W. John Beers Road  
Stevensville, Michigan 49127

## **IX. Fees**

The Library may charge a fee for a public record search, the necessary copying of a public record for inspection, or for providing a copy of a public record (or both) as set forth in the FOIA and this Policy. See attached Fee Schedule form.

### **A. Fees for examination, review and deletion and separation of exempt material:**

The Library may charge a fee, including a labor fee, for responding to a FOIA request. Labor charges will be calculated at the hourly wage, including but not limited to fringe benefits, of the lowest paid, Library employee capable of retrieving the information necessary to comply with a request under the FOIA. Fees may include the following: 26

1. A fee, including a labor fee, for the actual incremental cost of duplication or publication and publication for inspection.
2. A fee, including a labor fee, may be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information if the failure to charge the fee would result in unreasonably high costs to the Library because of the nature of the request in the particular instance, and the FOIA Coordinator identifies the nature of the unreasonably high cost to the Library.
  - a. Cost of search, examination, review, and the deletion and separation of exempt from nonexempt information of \$50.00 or more are considered unreasonably high costs to the Library due to the amount of time that must be devoted to such tasks in order to incur that level of costs and the cumulative effort such request would have on the Library's ability to provide its usual services to the public.
  - b. For costs of search, examination, review and deletion and separation less than \$50.00, the FOIA Coordinator has the authority to determine when the costs are unreasonably high in a particular instance, including but not limited to instances when the costs would be excessive and beyond the normal or usual amounts for responding to a request. The FOIA Coordinator may take into account considerations such as the volume and complexity of the FOIA request as well as the Library's particular fiscal condition at the time of the request.

### **B. Mailing and postage fees.**

The Library may charge the actual cost of mailing and documents to the person who submitted then FOIA request.

1. Standard legal and letter size public documents: one or two sided sheets ten cents (\$.10) per page.
2. Returned checks: The Library will charge the actual cost charged by the bank for returned checks
3. Video or audio tapes: Actual cost of the tape and actual cost of the reproduction of the tape.
4. Compact discs or DVDs (or other media): Actual cost of the disc, CD or DVD.
5. Standard legal and letter size public documents: one or two sided sheets ten cents (\$.10) per page.
6. Oversized documents: Actual costs incurred by the Library in order to provide copies.
7. Postage: Actual cost of sending the documents, using the least expensive method of delivery.

#### C. Deposit

In cases where a charge exceeding \$50.00 for copies is expected, a good faith deposit may be collected in advance, not to exceed one-half (1/2) of the expected total fee, when the request for such information is made or is determined by the Library.

#### D. Release of Documents upon Payment of Fee

After a person requesting information pays the fee, the FOIA Coordinator will release the requested information to the person.

#### E. Affidavit of Indigence

A public record search will be made and a copy of a public record furnished without charge for the first \$20.00 of the fee for each request from an individual who is entitled to information under the FOIA and who submits an affidavit stating that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the costs because of indigence.

An individual is ineligible for a fee reduction if the individual has previously received discounted copies of public records from the same Library twice during that calendar year; or the request is being made in conjunction with an outside party who is providing payment to the requestor.

#### F. Public Interest Reduction or Waiver

The FOIA Coordinator may reduce or waive a fee if the Coordinator determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. 28

### LINCOLN TOWNSHIP PUBLIC LIBRARY FREEDOM OF INFORMATION ACT FEE SCHEDULE

#### Labor

Searching for, locating and examining public records

***Time rounded to the nearest quarter hour. \$10.20 per hour***

Separating and deleting exempt from nonexempt information Hours Cost

***Time rounded to the nearest quarter hour. \$10.20 per hour***

Paper copies Hours Cost

***Time rounded to the nearest quarter hour. \$10.20 per hour***

Digital Copies Hours Cost

***Time rounded to the nearest quarter hour. \$10.20 per hour***

**Materials**

Paper (not including labor) Cost

***Black = .10 per page Color=.25 per page***

Non-physical media (CDs, flash drives) Cost

***Charge per flash drive \$5.00***

Postage Cost

***Actual cost***

Total: 29