**WASTEWATER AUTHORITY OF LAKE ODESSA**

**RESOLUTION #2017-4**

A RESOLUTION ESTABLISHING A PUBLIC SUMMARY OF FOIA PROCEDURES AND GUIDELINES

WHEREAS, Michigan Public Act 563 of 2014 requires that on or before July 1, 2015, public bodies shall establish a written summary to inform the public on how to submit

Freedom of Information Act ("FOIA") requests, how to understand the public body’s responses to those requests, deposit requirements, fee calculations, and avenues for challenging and appealing the public body’s denial of a request;

NOW, THEREFORE, BE IT RESOLVED that the following Public Summary of FOIA Procedures and Guidelines is hereby adopted:

**Lakewood Wastewater Wastewater Authority**

**Public Summary of FOIA Procedures and Guidelines**

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is a Written Public Summary of the Wastewater Authority’s FOIA Procedures and Guidelines relevant to the general public. For more details and information, copies of the Wastewater Authority’s FOIA Procedures and Guidelines are available at no charge at the Wastewater Authority office and on the Wastewater Authority’s website: http://www.lakewoodwastewater.org/FOIA.html

**1. How do I submit a FOIA request to the Wastewater Authority?**

1. FOIA requests must be made in writing and must sufficiently describe a public record so as to enable the Wastewater Authority to find it. There is no required form for submitting FOIA requests. Any letter, email, fax, or other writing will suffice.
2. Please include the words “FOIA” or “FOIA Request” in the request to assist the Wastewater Authority in providing a prompt response.
3. The Wastewater Authority Administrative Assistant is in charge of responding to all FOIA requests for general Wastewater Authority records.
4. To ensure proper receipt, the Wastewater Authority prefers that FOIA requests be submitted by one of the following methods:

|  |  |  |
| --- | --- | --- |
| **Mail / Hand Delivery** | **Email** | **Facsimile** |
| Lakewood Wastewater Wastewater Authority Attn: FOIA Request 839 Fourth Avenue Lake Odessa, MI 48849 | admin@lakewoodwastewater.org | (616) 374-0040 |

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

1. Within 5 business days after receiving a FOIA request, or after 15 business days if a notice of extension is issued, the Wastewater Authority will respond to the request. If a request is received by fax or email, the request is deemed to have been received on the following business day. The Wastewater Authority 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, or
   * Issue a written notice indicating that the public record requested is available at no charge on the Wastewater Authority’s website
2. If the request is granted, or granted in part, the Wastewater Authority may ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.
3. If the cost of processing the request is expected to exceed $50, or if you have not paid for a previously granted request, the Wastewater Authority may require a deposit before processing the request.

**3. How does the Wastewater Authority calculate FOIA processing fees?**

The FOIA statute permits the Wastewater Authority to charge for the following costs associated with processing a request:

1. Labor costs associated with copying or duplication, including making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
2. Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the Wastewater Authority.
3. Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Wastewater Authority.
4. The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the Wastewater Authority’s website if you ask for the Wastewater Authority to make copies.
5. The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on the Wastewater Authority’s website if you ask for the Wastewater Authority to make copies.
6. The cost to mail or send a public record to a requestor.

***3.1 Labor Costs***

1. Labor costs are estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
2. Labor costs are charged at the hourly wage of the lowest-paid Wastewater Authority employee capable of doing the work in the specific fee category, regardless of who actually performs work.
3. Labor costs may include a charge to cover or partially cover the cost of fringe benefits.
4. Overtime wages are not included in labor costs unless agreed to by the requestor. Further, overtime costs are not be used to calculate the fringe benefit costs.
5. Contracted labor costs will be charged at a hourly rate not exceeding 6 times the state minimum hourly wage.

***3.2 Copying and Duplication***

The Wastewater Authority will use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

***3.3 Non-paper Copies on Physical Media***

1. 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 to the Wastewater Authority. The Wastewater Authority will procure any needed non-paper media at the most reasonably economical cost.
2. The Wastewater Authority is not obligated to disclose public records on a requested non-paper physical media if it lacks the technological capability to do so.

***3.4 Paper Copies***

1. The charge for 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.
2. The charge for copies on non-standard sized sheets will paper will reflect the actual cost of reproduction.

***3.5 Mailing Costs***

1. The cost to mail public records will reflect a reasonably economical and justified means.
2. The Wastewater Authority may charge for the least expensive form of postal delivery confirmation.
3. No cost will be made for expedited shipping or insurance unless you request it.

***3.6 Waiver of Fees***

The charge searching for and copying 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.

**4. How do I qualify for an indigence discount on the fee?**

The Wastewater Authority will discount the first $20.00 of fees for a request from: (1) certain qualifying nonprofit organizations advocating for the developmentally disabled or mentally ill: or (2) persons who submit a sworn 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 indigence.

However, a person is **not** eligible to receive the $20.00 discount if he or she:

1. Has previously received discounted copies of public records from the Wastewater Authority two times during the calendar year; or
2. Is requesting information on behalf of other persons who are offering or providing payment for making the request.

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

***6.1 Appeal of a Denial of a Public Record***

1. 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 Wastewater Authority Board by filing a written appeal with the Wastewater Authority Manager’s Office.
2. 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.
3. After the filing of the written appeal, the Wastewater Authority Board will consider the appeal at the next public meeting for which the agenda has not already been set. The Wastewater Authority Board will render a decision at the meeting and issue a written notice:
   * Reversing the disclosure denial;
   * Upholding the disclosure denial; or
   * Reversing the disclosure denial in part and upholding the disclosure denial in part.
4. Whether or not you submitted an appeal of a denial to the Wastewater Authority Manager, you may file a civil action in Allegan County Circuit Court within 180 days after the Wastewater Authority'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 Wastewater Authority acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of $1,000.

***6.2 Appeal of an Excess FOIA Processing Fee***

1. If you believe that the fee charged by the Wastewater Authority to process your FOIA request exceeds the amount permitted by state law, you may appeal to the Wastewater Authority Manager by filing a written appeal with the Wastewater Authority Manager’s Office.
2. The appeal must specifically state the word “appeal” and identify how the required fee exceeds the amount permitted.
3. After the filing of the written appeal, the Wastewater Authority Board will consider the appeal at the next public meeting for which the agenda has not already been set. The Wastewater Authority Board will render a decision at the meeting and issue a written notice:
   * Waiving the fee;
   * Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee; or
   * Upholding the fee and issue a written determination indicating the specific basis that supports the required fee.
4. Within 45 days after receiving notice of the Wastewater Authority Board’s determination of the processing fee appeal, you may commence a civil action in Ionia 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 Wastewater Authority acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of $500.

At a regular meeting of the Lakewood Wastewater Authority Board held on September 20, 2017, motion by Trustee\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, with support by Trustee\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to adopt the foregoing Resolution 2017-4.

Ayes:

Nays:

Absent:

RESOLUTION DECLARED ADOPTED.

CERTIFICATION

I hereby certify that this is a true and complete copy of Resolution 2017-4, adopted by the Lake Odessa Wastewater Authority Board at a regular meeting held on September 20, 2017, the original of which is on file in the administration office and available to the public pursuant to the required statutory procedure.

Date signed: \_\_\_\_\_\_\_\_\_, 2017

Joel Pepper, Secretary

Lakewood Wastewater Authority