



GLADSTONE CITY COMMISSION REGULAR MEETING

City Hall Chambers – 1100 Delta Avenue
June 22, 2026
6:00 PM

AGENDA

CALL TO ORDER

1. Invocation
2. Pledge of Allegiance
3. Roll Call

CONFLICTS OF INTEREST

PUBLIC HEARINGS

PUBLIC COMMENT

CONSENT AGENDA

- [4.](#) DDA Regular Meeting Minutes - April 28, 2026
- [5.](#) City Commission Regular Meeting Minutes June 8, 2026
- [6.](#) Hawkins, Inc. Invoice 7430319 Water Chemicals \$13,604.61

UNFINISHED BUSINESS

NEW BUSINESS

- [7.](#) Chapter 54 Traffic & Vehicles Article I. General Section 54-6 Snowmobile/ORVs & Off-Road Vehicles Discussion
- [8.](#) Teamsters Union Contract
- [9.](#) Extend Summer 26 Property Tax Due Date
- [10.](#) Summer 2026 Property Tax Liens
- [11.](#) Social District Management & Maintenance Plan Amendment
- [12.](#) Special Event Permit | Rocking the Bay
- [13.](#) Freedom of Information Act (FOIA) Appeal - Excessive Fees - Michael O'Connor
- [14.](#) Freedom of Information Act (FOIA) Appeal of Denial of Public Record - Michael O'Connor
- [15.](#) Parks & Recreation Advisory Board Appointment - Ms. Kristyn Madalinski
- [16.](#) Parks & Recreation Advisory Board Reappointments - Mr. Roger Aho & Mr. Gary Stevenson

CITY MANAGER'S REPORT

CITY COMMISSION & COMMITTEE REPORTS

BOARDS & COMMISSIONS REPORTS

CITY COMMISSIONER COMMENTS

CITY CLERK COMMENTS

CLOSED SESSION

ADJOURNMENT

The City of Gladstone will provide all necessary, reasonable aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting to individuals with disabilities at the meeting/hearing upon five days notice to the City of Gladstone. Individuals with disabilities requiring auxiliary aids or services should contact the City of Gladstone by writing or calling City Hall at (906) 428-2311.

Posted: 06-18-2026

Kimberly Berry, MiPMC
906-428-2311
kberry@gladstonemi.gov

RULES FOR PUBLIC COMMENT/ PUBLIC HEARINGS

(Excerpt from City Commission Rules of Procedure Adopted: 11-25-2019)

A. Public Comment / Public Hearings

At regular and special meetings of the commission, individuals wishing to be heard may address the commission during the public comment/public hearing periods as set forth in the agenda under the following rules:

1. Each speaker shall state name and address for the record.
2. Each speaker is limited to three (3) minutes of comment unless the presiding officer decides more time is necessary
3. Each speaker shall try to be concise and refrain from repeating comments already addressed by the commission.
4. Speakers who do not cease speaking when asked to do so will be deemed out of order and will not be allowed to address the commission again for the remainder of the meeting; continued disruption will warrant removal from the meeting.
5. The commission shall not decide issues that arise during public comment.
6. Speakers should address the commission through the presiding officer.
7. Commissioners and staff will not debate with the public.
8. Speakers will not verbally attack City Commissioners, City Staff or members of the public attending the meeting. Any such behavior will not be tolerated and any person presenting in this manner will be warned by the Mayor and shall be removed by Public Safety for noncompliance.
9. No vulgar or obscene language will be used by the speakers.
10. Any information the speaker wants to distribute to the Commission must first ask the Chair (Mayor) if they may present the Commission written comments at the meeting.
11. Speakers may not ask questions of the board during this time as the Commission or Staff will not address them during this public comment period.



GLADSTONE DOWNTOWN DEVELOPMENT AUTHORITY

City Hall Chambers – 1100 Delta Avenue

April 28, 2026

8:15 AM

Item 4.

MINUTES

CALL TO ORDER

DDA Chairperson, Jay Bostwick, called the meeting to order at 8:20 AM ET.

1. Roll Call

PRESENT	ABSENT
Jacob Taylor	Daniel Becker (Excused)
Jay Bostwick	Robert LeDuc (Excused)
Jason Lippens	
Joe Thompson	
Kyle Closs	
Nathan Neumeier	
Parker Grzybowski	

Staff Present: Rob Spreitzer, Patricia West & Samantha Gaudino

PUBLIC COMMENT

None.

APPROVAL OF MINUTES

2. Regular Meeting Minutes - March 24, 2026

Motion made by Closs, seconded by Grzybowski to approve the regular meeting minutes of March 24, 2026.

Voting Yea: Taylor, Bostwick, Lippens, Thompson, Closs, Neumeier, Grzybowski

MOTION CARRIED.

FINANCIALS

3. March 2026 Revenue & Expenditure Report

West provided an overview of the March Revenue & Expenditure report, noting that March marks the end of the fiscal year. The fiscal year is currently being closed out, and all major expenditures have been accounted for.

CONFLICTS OF INTEREST

None.

ADDITIONS TO THE AGENDA

West requested the addition of the Gladstone Eye Care Facade Grant to the New Business agenda as item 7.5. DDA Chairperson, Jay Bostwick added it to the agenda.

UNFINISHED BUSINESS

4. Additional North Shore Payment Discussion

Motion made by Grzybowski, seconded by Neumeier to postpone the discussion until the June meeting to allow time for the Treasurer to consolidate the return on investment data.

Item 4.

Voting Yea: Taylor, Bostwick, Lippens, Thompson, Closs, Neumeier, Grzybowski

MOTION CARRIED.

NEW BUSINESS

5. Establishing "The Depot" Subcommittee

Motion made by Bostwick, seconded by Grzybowski to appoint Jay Bostwick and Parker Grzybowski to "The Depot" subcommittee.

Voting Yea: Taylor, Bostwick, Lippens, Thompson, Closs

MOTION CARRIED.

6. Market Square Rental Policies

Motion made by Closs, seconded by Neumeier, to adopt the Market Square Rental Policies with a modification to the discount section, allowing receipts to be submitted within 48 hours of the event for reimbursement of the first hour. It is further understood that associated fees will be incorporated into the City's annual fee schedule, to be reviewed by the City Commission each June, with an effective date of August 1, 2026.

Voting Yea: Taylor, Bostwick, Lippens, Thompson, Closs, Neumeier, Grzybowski

MOTION CARRIED.

7. Social District Hours Amendment

Motion made by Neumeier, seconded by Thompson, to propose amended social district hours to the Gladstone City Commission as year-round, seven days a week, from 12:00 PM to 10:00 PM.

Voting Yea: Taylor, Bostwick, Lippens, Thompson, Closs, Neumeier, Grzybowski

MOTION CARRIED.

7.5 Façade Grant for Gladstone Eye Care

Motion made by Taylor, seconded by Closs to extend the Gladstone Eye Care Façade Grant through the 2026-2027 fiscal year to allow for the backordered awnings.

Voting Yea: Taylor, Bostwick, Lippens, Thompson, Closs, Neumeier, Grzybowski

MOTION CARRIED.

CITY COMMENTS & REPORTS

In addition to the items listed below, West shared that the City's cleanup vouchers will be available beginning May 1 and valid through June 30.

8. Delta County Public Transportation Survey

West shared that a link to a public transportation survey is available on the City of Gladstone's website.

9. DPW Hiring Seasonal Position

West share the seasonal part-time employment opportunity.

10. Wastewater Hiring Operator

West shared the full-time benefitted employment opportunity.

11. Zoning Administrator Certification

West shared that she passed her Zoning Administrator certification test.

BOARD COMMENTS & REPORTS

12. Michigan Municipal League Site Visit

Item 4.

Parker Grzybowski and Samantha Gaudino shared notable takeaways from the MML's site visit on Wednesday, April 22nd. A formal report will be forthcoming.

ADJOURNMENT

Motion made by Neumeier, seconded by Grzybowski to adjourn the meeting at 9:41 AM ET.

Voting Yea: Taylor, Bostwick, Lippens, Thompson, Closs, Neumeier, Grzybowski

MEETING ADJOURNED.



GLADSTONE CITY COMMISSION REGULAR MEETING

City Hall Chambers – 1100 Delta Avenue
June 08, 2026
6:00 PM

Item 5.

MINUTES

Mayor Pro-Tem Mantela called the meeting to order; gave the Invocation and led the Pledge of Allegiance.

Clerk Kimberly Berry called the roll:

PRESENT

Commissioner Judy Akkala
Mayor Pro-Tem Brad Mantela
Commissioner Steve O'Driscoll
Commissioner Whitney Maloney

ABSENT-EXCUSED

Mayor Joe Thompson

The following individual(s) spoke under public comment:

Mr. Steve Harrington, resident of Minnesota Recreational Vehicle Camper at Gladstone Campground

Motion made by Commissioner Akkala, Seconded by Commissioner Maloney to approve the consent agenda as presented.

MOTION CARRIED

Motion made by Commissioner O'Driscoll, Seconded by Commissioner Maloney to adopt the Gladstone Bay Campground Policies and Procedures as presented with the removal of "for any reason" under Cancellation Policy, 4th bullet so it reads: If a guest decides to leave early for any reason during their camping stay or if Administration deems it necessary to terminate the camping stay, there is no refund.

MOTION CARRIED

Motion made by Commissioner O'Driscoll, Seconded by Commissioner Maloney to approve the Rental of the Sail School Boathouse fees as follows:

1-Day Rental: \$150 (Residents); \$180 (Non-residents)

2-Day Rental \$260 (Residents); \$290 (Non-residents)

\$50 security deposit to be returned after successful inspection of the facility following the rental.

Reservations will begin Summer 2026.

MOTION CARRIED

Motion made by Commissioner Akkala, Seconded by Commissioner O'Driscoll to approve The Dust Bunnies Band - Maddie Hubert to hold the special event "Skate Fever" at the Gladstone Sports Park on Saturday, July 11, 2026 from 3:00 PM to 10:00 PM.

MOTION CARRIED

Motion made by Mayor Pro-Tem Mantela, Seconded by Commissioner O'Driscoll to authorize Mayor Joseph Thompson and City Clerk Kimberly Berry to sign the L-4029 Form for the City of Gladstone tax millage for 2026.

MOTION CARRIED

Motion made by Commissioner O'Driscoll, Seconded by Commissioner Maloney to approve the utility rates and fee schedule as presented along with the DDA and Community Development fees distributed at the meeting with an effective date of August 1, 2026.

MOTION CARRIED

Motion made by Commissioner Akkala, Seconded by Mayor Pro-Tem Mantela to authorize City Clerk, Kimberly Berry to appoint the necessary election inspectors as needed for the August 4, 2026 State Primary Election for Early Voting Precinct (located at Wells Township Hall), Gladstone Precinct 1 (City Hall), Gladstone Precinct 2 (Sports Park), Absent Voter Counting Board for Precinct 1 & 2 (City Hall), Receiving Board (City Hall) and Public Accuracy Testing (City Hall).

MOTION CARRIED

Motion made by Commissioner Maloney, Seconded by Commissioner O'Driscoll to receive the Appeal of Excessive FOIA Fees by Michael O'Connor in reference to his FOIA Request No. 2026-06 and add to the City Commission regular meeting agenda on Monday, June 22, 2026 at 6:00 PM.

MOTION CARRIED

Motion made by Commissioner Maloney, Seconded by Commissioner O'Driscoll to receive the appeal of a Denial of A Public Record by Michael O'Connor in reference to his FOIA Request No. 2026-06 and add to the City Commission regular meeting agenda on Monday, June 22, 2026 at 6:00 PM.

MOTION CARRIED

City Manager Robert Spreitzer reported on the following:

I visited Fernwood Cemetery the Friday before Memorial Day and wanted to thank Ricky Erickson and his crew for doing a great job of having the cemetery prepared for the holiday weekend. Also, we are two weeks into the Farmers Market, and I would like to thank Samantha Gaudino for all the work that she has put into the market. The market has been busy with both patrons and vendors and I have been hearing only good things about the market.

City Hall went to summer hours last week 7:30 am to 5:00 pm. A reminder that the Cabela's Walleye Tournament will be returning June 18 and 19. The summer concerts in the park start this Thursday, June 11, with Paul Perry classic country and 70's rock.

City of Gladstone Clean Up Vouchers are still available at City Hall until June 30th.

The City of Gladstone invites residents to safely recycle unwanted electronics for \$5.00 per car at our upcoming e-waste collection event on Friday, June 26 from 10:00 am - 2:00 pm at the Gladstone Bus Garage (103 N. 12th Street)

Accepted Items:

DVD & VCR players

Computer, phones and tablets

Desktop fax machines

TVs & Monitors

Gaming Consoles

Keyboards, cords & routers

Desktop printers & scanners

Kitchen appliances will NOT be accepted

Motion made by Commissioner Maloney, Seconded by Commissioner O'Driscoll to enter closed session at 6:33 pm to consider personnel evaluation as allowable under the Open Meetings Act 267 of 1976 (15.268) Section 8a as requested by City Manager Robert Spreitzer.

Mayor Pro-Tem Mantela Yes

Commissioner O'Driscoll Yes

Commissioner Akkala Yes

Commissioner Maloney Yes

Mayor Thompson Absent - Excused

MOTION CARRIED

Mayor Pro-Tem Mantela called the meeting back into open session at 7:34 pm where he reported no actions were taken in closed session. Mayor Pro-Tem Mantela reported that City Manager Robert Spreitzer received a glowing six-month review.

Motion made by Mayor Pro-Tem Mantela, Seconded by Commissioner Akkala recommended Robert Spreitzer effective July 1, 2026 move from Interim City Manager to City Manager, salary of \$102,000; MERS Defined Contribution retirement of Employer contribution of 12% and Employee contribution of 4% in a one-year contract to be presented at the July 13, 2026 regular commission meeting.

Mayor Pro-Tem Mantela Yes

Commissioner O'Driscoll Yes

Commissioner Akkala Yes

Commissioner Maloney Yes

Mayor Thompson Absent-Excused

MOTION CARRIED

There being no further business before the City Commission Mayor Pro-Tem Mantela adjourned the meeting at 7:55 pm.

Mayor Pro-Tem Brad Mantela

City Clerk Kimberly Berry

Original

Item 6.



Hawkins, Inc.
2381 Rosegate
Roseville, MN 55113
Phone: (612) 331-6910

INVOICE

Total Invoice **\$13,604.61**
Invoice Number 7430319
Invoice Date 5/19/26
Sales Order Number/Type 5155053 SL
Branch Plant 54
Shipment Number 6203957

Sold To: 266160
ACCOUNTS PAYABLE
CITY OF GLADSTONE
1100 Delta Ave
Gladstone MI 49837-1434

Ship To: 266161
CITY OF GLADSTONE WATER PLANT
22 Delta Ave
Gladstone MI 49837-1904

C/C
6/22/2020

591-549-764.000
6-8-26
TR

Net Due Date Terms		FOB Description	Ship Via	Customer P.O.#			P.O. Release		Sales Agent #
7/3/26 Net 45		PPD Origin	HWTG						065
Line #	Item Number	Item Name/ Description	Tax	Qty Shipped	Trans UOM	Unit Price	Price UOM	Weight Net/Gross	Extended Price
1.001	699913	150 LB Chlorine Cylinder	N	5.0000-	CY	\$0.0000	RT	.0 LB	\$0.00
		CYL 3AA480		5.0000-	RT			500.0- GW	

Related Order #: 5155053

Container Barcodes: 103144, 107208, 116697, 122142, 123412

2.001	699923	30 GA Blue/Blk Drum	N	1.0000-	DR	\$30.0000	DR	16.0- LB	(\$30.00)
		DRUM 1H1/Y1.8/150		1.0000-	DR			16.0- GW	

Related Order #: 05045659

2.002	699923	30 GA Blue/Blk Drum	N	1.0000-	DR	\$30.0000	DR	16.0- LB	(\$30.00)
		DRUM 1H1/Y1.8/150		1.0000-	DR			16.0- GW	

Related Order #: 05045659

3.001	699916	330 G SQ Stackable Poly Tote	N	2.0000-	TO	\$0.0000	RT	550.0- LB	\$0.00
		Red Base #6610087B97202		2.0000-	RT			550.0- GW	

Related Order #: 5155053

Container Barcodes: 2107321301, 2112378493

4.000	33195	Aqua Hawk® 117	N	1.0000	TO	\$1.4913	LB	3,616.8 LB	\$5,393.73
		330 GA Tote		3616.8000	LB			3,891.8 GW	

Page 1 of 3

Tax Rate

Sales Tax

0 %

\$0.00

Invoice Total

Continued on next page

No Discounts on Freight
IMPORTANT: All products are sold without warranty of any kind and purchasers will, by their own tests, determine suitability of such products for their own use. Seller warrants that all goods covered by this invoice were produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended. Seller specifically disclaims and excludes any warranty of merchantability and any warranty of fitness for a particular purpose.
NO CLAIMS FOR LOSS, DAMAGE OR LEAKAGE ALLOWED AFTER DELIVERY IS MADE IN GOOD CONDITION.

CHECK REMITTANCE:
Hawkins, Inc.
P.O. Box 860263
Minneapolis, MN 55486-0263

WIRING CONTACT INFORMATION:
Email: Credit.Dept@Hawkinsinc.com

Phone Number: (612) 331-6910
Fax Number: (612) 225-6702

FINANCIAL INSTITUTION:
US Bank
800 Nicollet Mall
Minneapolis, MN 55402

Account Name: Hawkins, Inc.
Account #: 180120759469
ABA/Routing #: 091000022
Swift Code#: USBKUS44IMT
Type of Account: Corporate Checking

ACH PAYMENTS:
CTX (Corporate Trade Exchange) is our preferred method. Please remember to include in the addendum the document numbers pertaining to the payment.
For other than CTX, the remit to information may be emailed to Credit.Dept@Hawkinsinc.com

CASH IN ADVANCE/EFT PAYMENTS:
Please list the Hawkins, Inc. sales order number or your purchase order number if the invoice has not been processed yet.

This contractor and subcontractor shall abide by the requirements of 41 CFR 5560-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

www.hawkinsinc.com

Job# 278886

10



Hawkins, Inc.
2381 Rosegate
Roseville, MN 55113
Phone: (612) 331-6910

INVOICE

Total Invoice **\$13,604.61**
Invoice Number 7430319
Invoice Date 5/19/26
Sales Order Number/Type 5155053 SL
Branch Plant 54
Shipment Number 6203957

Line #	Item Number	Item Name/ Description	Tax	Qty Shipped	Trans UOM	Unit Price	Price UOM	Weight Net/Gross	Extended Price
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Lot/SN: 980585

Demurrage charges may be invoiced if not returned timely.

Container Barcodes: 2207312846

4.001	699916	330 G SQ Stackable Poly Tote	N	1.0000	TO	\$0.0000	RT	275.0 LB	\$0.00
		Red Base #6610087B97202		1.0000	RT			275.0 GW	

Related Order #: 5155053

5.000	4800	Chlorine EPA 7870-2	N	5.0000	CY	\$1.3081	LB	750.0 LB	\$981.08
		150 LB CY (Hawkins Cylinder)		750.0000	LB			1,309.5 GW	
		Customer Item #: L1128565							

Demurrage charges may be invoiced if not returned timely.

Container Barcodes: 106627, 119364, 122186, 128956, 131575

5.001	699913	150 LB Chlorine Cylinder	N	5.0000	CY	\$0.0000	RT	.0 LB	\$0.00
		CYL 3AA480		5.0000	RT			500.0 GW	

Related Order #: 5155053

6.000	1135	Hydrofluosilicic Acid	N	2.0000	DR	\$0.6300	LB	600.0 LB	\$378.00
		300 LB DR		600.0000	LB			640.0 GW	

6.001	699923	30 GA Blue/Blk Drum	N	2.0000	DR	\$30.0000	RD	32.0 LB	\$60.00
		DRUM 1H1/Y1.8/150		2.0000	RD			32.0 GW	

Related Order #: 05155053

7.000	908705	LPC-DP	N	2.0000	DR	\$1.8204	LB	768.0 LB	\$1,398.07
		384 LB DR		768.0000	LB			800.0 GW	

7.001	699923	30 GA Blue/Blk Drum	N	2.0000	DR	\$30.0000	RD	32.0 LB	\$60.00
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Page 2 of 3

Tax Rate
0 %

Sales Tax
\$0.00

Invoice Total

Continued on next page

No Discounts on Freight
IMPORTANT: All products are sold without warranty of any kind and purchasers will, by their own tests, determine suitability of such products for their own use. Seller warrants that all goods covered by this invoice were produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended. Seller specifically disclaims and excludes any warranty of merchantability and any warranty of fitness for a particular purpose.
NO CLAIMS FOR LOSS, DAMAGE OR LEAKAGE ALLOWED AFTER DELIVERY IS MADE IN GOOD CONDITION.

CHECK REMITTANCE:
Hawkins, Inc.
P.O. Box 860263
Minneapolis, MN 55486-0263

WIRING CONTACT INFORMATION:
Email: Credit.Dept@Hawkinsinc.com
Phone Number: (612) 331-6910
Fax Number: (612) 225-6702

FINANCIAL INSTITUTION:
US Bank
800 Nicollet Mall
Minneapolis, MN 55402

Account Name: Hawkins, Inc.
Account #: 180120759469
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Type of Account: Corporate Checking

ACH PAYMENTS:
CTX (Corporate Trade Exchange) is our preferred method. Please remember to include in the addendum the document numbers pertaining to the payment.
For other than CTX, the remit to information may be emailed to Credit.Dept@Hawkinsinc.com

CASH IN ADVANCE/EFT PAYMENTS:
Please list the Hawkins, Inc. sales order number or your purchase order number if the invoice has not been processed yet.

This contractor and subcontractor shall abide by the requirements of 41 CFR §§60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

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DRUM 1H1/Y1.8/150

2.0000 RD

32.0 GW

Related Order #: 05155053

8.000	33195	Aqua Hawk® 117	N	1.0000	TO	\$1.4913	LB	3,616.8 LB	\$5,393.73
		330 GA Tote		3616.8000	LB			3,891.8 GW	

Lot/SN: 982945

Demurrage charges may be invoiced if not returned timely.

Container Barcodes: 2207316490

8.001	699916	330 G SQ Stackable Poly Tote	N	1.0000	TO	\$0.0000	RT	275.0 LB	\$0.00
		Red Base #6610087B97202		1.0000	RT			275.0 GW	

Related Order #: 5155053

***** Receive Your Invoice Via Email *****

Please contact our Accounts Receivable Department via email at Credit.Dept@HawkinsInc.com
or call 612-331-6910 to get it setup on your account.

No Discounts on Freight

IMPORTANT: All products are sold without warranty of any kind and purchasers will, by their own tests, determine suitability of such products for their own use. Seller warrants that all goods covered by this invoice were produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended. Seller specifically disclaims and excludes any warranty of merchantability and any warranty of fitness for a particular purpose.

**NO CLAIMS FOR LOSS, DAMAGE OR LEAKAGE
ALLOWED AFTER DELIVERY IS MADE IN GOOD
CONDITION.**

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Board:	City Commission
Agenda Date:	06-22-2026
Department:	City Commission
Presenter:	Commissioner O'Driscoll

Staff Report

Agenda Item Title:

Off Road Vehicle (ORV) City Ordinance

Background:

Commissioner O'Driscoll is proposing to discuss the shortcomings of the existing ORV city ordinance and possible amendments. Since the passage of the ordinance there has been found to be some concerns and possible holes in our ordinance. His biggest concerns are vehicles covered - needing expansion to all electric and combustion powered vehicles and an age of operation concern for all motorized vehicles.

Fiscal Effect:

Supporting Documentation:

Chapter 54 Traffic & Vehicles Article I General Section 54-6 Snowmobile/ORVs & Off-Road Vehicles

City of Gladstone Streets Prohibited for Snowmobile/ORV Use – Adopted 06-22-2015

Recommendation:

Commission decision

Sec. 54-6. - Snowmobile/ORVS and off-road vehicles.

(a) *Definitions.*

Off-road vehicle (ORV) means a motor-driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. A multitrack or multiwheel drive vehicle, a motorcycle or related two-wheel vehicle, a vehicle with three or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ORV does not include a registered snowmobile/ORV, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

Snowmobile means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923.

(b) *Purpose.* The intent of this section is to establish access routes along the streets within the city for use by snowmobile/ORV; establish the terms and conditions upon which such access routes may be used; and provide penalties for the violations thereof.

(1) Designation of streets for snowmobile/ORV use.

- a. Unless specifically designated otherwise as provided herein, all city streets and alleys within the city are hereby designated to be access routes upon which snowmobile/ORVs may be operated for the purpose of providing access to and from trails where snowmobile/ORV operation is permitted. Such access routes do not include or involve U.S. 2 and 41 and M-35 unless approved as a MDOT connector route.
- b. The city commission by resolution is hereby authorized to designate those streets or alleys under its jurisdiction, or parts or sections thereof, upon which the operation of snowmobile/ORVs shall be prohibited.

(2) Regulations on snowmobile/ORV operation.

- a. Snowmobile/ORVs shall only be operated on any approved street or alley for the following reasons:
 1. For the purpose of gaining access to or from trails where snowmobile/ORV operation is permitted, using the most direct route from the home of the operator.

(3) A snowmobile/ORV operated on a street or alley pursuant to this section shall at all times be operated:

- a. On the outermost right side of the roadway, but not on grassy areas or areas not normally used for vehicular travel;
- b. In single file, with the flow of traffic;
- c. In compliance with all the provisions of federal, state and local statutes, rules, regulations and ordinances applicable to such snowmobile/ORV operation;
- d. At a speed not to exceed 15 miles per hour.

(4) An snowmobile/ORV may be operated on the roadway of a street or alley under the jurisdiction of the city, whether or not such operation has been prohibited only:

- a. In a life-threatening emergency.
- b. By crossing such roadway at right angles, for the purpose of getting from one area to another if the operation can be done safely. The operator shall bring the snowmobile/ORV to

complete stop prior to crossing the roadway and shall yield the right-of-way to oncoming traffic.

- (5) An snowmobile/ORV may not be operated:
- a. For the purpose of traveling to or from work or school;
 - b. On the part of a street normally occupied by ditches, front slopes, back slopes, or utilities such areas being more specifically defined as those parts of the street between the outside shoulder point and the right-of-way boundary line;
 - c. Within city owned parks except at designated access points approved by the city commission, or any natural areas within the city;
 - d. Upon U.S. 2 and 41 and M-35;
 - e. On those shoulders, paths or areas specifically designed as non-motorized facilities;
 - f. In violation of any of the provisions of MCL 324.81101 et seq. and that various subsections thereof, as amended as well as all other statutes, rules, regulations and ordinances applicable to such snowmobile/ORV operations.
- (6) Violations and penalties.
- a. Any person who violates any provision of this section is committing a municipal civil infraction, and will be liable for a civil fine.

(Ord. No. 573, § 1, 6-23-2008; Ord. No. 597, 6-22-2015)

State Law reference— Authority to allow snowmobile/ORVs on streets, MCL 324.82119; snowmobile/ORVs generally, MCL 324.82101, MCL 324.81131.

City of Gladstone Streets Prohibited for Snowmobile/ORV Use

13th Street from Superior Avenue to Minneapolis Avenue

10th Street

9th Street between Railway Avenue to Minneapolis Avenue

Lake Shore Drive

4th Street

Michigan Avenue from US 2 & 41 to 3rd Street

South Hill Road from Keeton Street eastward toward US 2 & 41

600 block through 900 block on 29th Street

Delta Avenue from US 2 & 41 to 4th Street

Note: City Street Signs marked with a red sticker indicate these prohibited routes for snowmobile/ORV use.

City of Gladstone Approved Access Points in City Parks

VanCleve Park Access Points

Pram Dock Area

West of Skate Park

Lake Shore Drive/Marble Avenue

City Commission Adopted: 06-22-2015



Board:	City Commission
Agenda Date:	06-22-2026
Department:	City Commission
Presenter:	Mayor Thompson

Staff Report

Agenda Item Title:

Teamsters Local Union 406 Tentative Agreement - City of Gladstone

Background:

Negotiating team consisting of Mayor Joe Thompson, Commissioner Maloney and Manager Spreitzer met with the Teamsters Union representatives and agreed to the tentative agreement as presented.

Fiscal Effect:

Supporting Documentation:

Tentative Agreement 04-01-2026 to 03-31-2028

Recommendation:

Approve the contract as presented for the Teamsters Union effective 04-01-2026 and authorize Mayor Joe Thompson and City Manager Spreitzer to sign.

TENTATIVE AGREEMENT
AGREEMENT

BETWEEN

THE CITY OF GLADSTONE

AND



GENERAL TEAMSTERS

LOCAL UNION NO. 406

EFFECTIVE

APRIL 1, ~~2023~~ 2026

THROUGH

MARCH 31, ~~2026~~ 2029

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AGREEMENT

Item 8.

THIS AGREEMENT, made and entered into effective April 1, ~~2023~~ 2026 by and between the **CITY OF GLADSTONE**, hereinafter termed the “Employer” and **GENERAL TEAMSTERS LOCAL UNION NO. 406**, affiliated with the International Brotherhood of Teamsters, located at Escanaba, Michigan, party of the second part, hereinafter called the “Union.”

PURPOSE AND INTENT

The general purpose of this Agreement is to set forth terms and conditions of employment and to promote orderly and peaceful labor relations for the mutual interest of the Employer, the employees, and the Union.

ARTICLE 1 RECOGNITION, UNION SHOP AND DUES

SECTION 1. The Employer recognizes and acknowledges that the Union is the exclusive representative in collective bargaining with the Employer of those classifications of employees covered by this Agreement and listed in Schedule “A”, under Public Works, Water and Wastewater Departments, Office and Clerical, and Custodians.

Pursuant to and in accordance with all applicable provisions of Act 336 of the Public Acts of 1947, (known as the Hutchinson Act), as amended, the Employer does hereby recognize the Union as the exclusive representative for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment for the term of this Agreement of all permanent employees of the Employer included in the bargaining units as described and set forth in Schedule “A”.

~~Michigan's PA 349 of 2012 has invalidated the provisions set forth below at Article 1, Section 2, A. The clauses set forth below regarding Union Security and other matters rendered illegal by PA 349 of 2012 shall not be deemed contractually required only so long as PA 349 of 2012 remains the law of the State of Michigan.~~

SECTION 2. Membership in the Union is not compulsory. Regular employees have the right to join, not join, maintain, or drop their membership in the Union as they see fit. Neither party shall exert any pressure on or discriminate against an employee as regards such matters.

- A. Any permanent employee who is not a Union member and who does not make application for membership, shall as a condition of employment, pay to the Union a monthly service charge in an amount equal to the monthly dues and assessments uniformly applied to the members as a contribution toward the administration of this Agreement. Permanent employees who fail to comply with this requirement on the thirty-first (31st) day following the effective date of this Agreement, or on the thirty-first (31st) day following the beginning of their permanent employment, whichever occurs first, thereby indicate that they no longer desire employment with the City and will henceforth be separated for the City service.

- B. **SEASONAL EMPLOYEES:** It is understood and agreed that the Employer employs a number of seasonal employees from time to time to work on a temporary basis. The parties agree that these seasonal employees shall not be covered by the terms of this Agreement and shall not be obligated to pay Union dues or fees during the time of their employment by the Employer. To be considered seasonal employees, the said employees must work no more than eight hundred (800) hours for the City during any one calendar year. This Section shall in no way have the effect of displacing regular employees, nor shall seasonal help be employed when regular employees are on layoff.
- C. New permanent employees shall be considered probationary employees for a period of not less than six (6) months from their date of permanent employment. Such an employee may be terminated at any time during the trial period by the City without the right of appeal or hearing. Probationary employees are not eligible for transfer or promotion until they reach a minimum of one (1) year of service credit.

SECTION 3. If any provision of this Article is invalid under Federal Law or the laws of the State of Michigan, such provision shall be renegotiated to comply with the requirements of Federal or State Law or shall be renegotiated for the purpose of adequate replacement.

SECTION 4. During the period of time covered by this Agreement, the Employer agrees to deduct from the pay of any employee, all dues and/or initiation fees of Union No. 406, and pay such amount deducted to said Union Local No. 406, provided, however, that the Union presents to the Employer authorizations signed by such employee, allowing such deductions and payment to the Local Union, which shall have been furnished to the Employer and not revoked in accordance with the terms of the applicable authorization furnished to the Employer or in accordance with ~~federal~~ applicable labor law on the subject.

- A. The Union shall indemnify the Employer and Co-Employers and hold it harmless against any and all suits, claims, demands and liabilities that shall arise out of or by reason of any action that shall be taken by the Employer and Co-Employers for the purpose of complying with the foregoing provisions of this Article, or in reliance on any list notice or assignment which shall have been furnished to the Employer and Co-Employers under any such provisions.
- B. ~~However, notwithstanding PA 349 of 2012,~~ The Employer will continue to deduct Union dues and forward them to the Union from each employee ~~as they have done in the past, if and~~ so long as ~~it~~ the Employer has valid, written wage deduction instructions from each such employee, unless and until they are revoked or modified.

ARTICLE 2 **RIGHT TO MANAGE**

The City, on its own behalf and on behalf of its electors, hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the laws and the constitution of the State of Michigan and of the United States. Further, all rights which ordinarily vest in and area exercised by employers, except such as are specifically relinquished herein, are

reserves to and remain vested in the City, including but without limiting the generality of the foregoing, the right:

- A. To manage its affairs efficiently and economically, including the determination of quantity and quality of services to be rendered, the control of materials, tools and equipment to be used, and the discontinuance of any services, material, or methods of operation;
- B. To introduce new equipment, methods, machinery or processes, change or eliminate existing equipment and institute technological changes, decide on materials, supplies, equipment, and tools to be purchased;
- C. To subcontract or purchase any or all work, process or services, or the construction of new facilities or the improvement of existing facilities;
- D. To determine the number, location and type of facilities and installations;
- E. To determine the size of the work force and increase or decrease its size.
- F. To hire, assign and layoff employees, to reduce the workweek, or the workday or effect reduction in hours worked by combining layoffs and reductions in workweek or workday, to set hours of employment and to set times during the workday, to set hours of employment and to set times during the workday of all shifts.
- G. To direct the workforce, assign work, and determine the number of employees assigned to operations;
- H. To establish, change, combine or discontinue job classifications and prescribe and assign new job duties, content and classification; provided that, in the exercise of all of these prerogatives the City shall not violate the provisions of this Agreement.

ARTICLE 3 **SICK LEAVE, LEAVE OF ABSENCE,** **EMERGENCY LEAVE, MILITARY LEAVE**

SECTION 1. SICK LEAVE:

- A. The Parties intend the paid leave provisions of this Agreement to comply with Michigan's Earned Sick Time Act, MCL 408.961 et seq. (ESTA) subject to changes in the law. Sick leave will be earned at the rate of 8 hours per month. Sick leave may be accrued to a maximum accumulation of nine hundred sixty (960) hours. The first seventy-two (72) hours of sick leave are covered per the provisions of ESTA; all remaining sick leave hours beginning with hour seventy-three (73) will be per this collective bargaining agreement and City of Gladstone policies regarding sick leave. Pay for sick leave shall include employee's base wage license pay.
- B. Employees who terminate City employment through Defined Contribution retirement (defined as years of service + age = 65) shall be paid twenty-five percent (25%) of their accumulated sick leave in cash on their final paycheck or through

contribution to the employee's Health Savings Account, at the employee's option. This will be as per MERS Health Savings Account rules.

- C. It shall be the responsibility of the Employer to maintain the sick leave records and it shall be the responsibility of the employee to verify their records and notify the City if a discrepancy is noted. All employees shall be required to fill out sick leave forms supplied by the Employer, after they have returned to work.
- ~~D.~~ ~~An employee who has not served a full year between the time of entering the City service and the employee's anniversary date for sick leave, shall be entitled to sick leave for the portion of the year worked, but may not take such leave until after he has served six (6) months (may take only earned time). Time earned shall be prorated if an employee runs short weekly/biweekly at the rate of eight (8) hours per month, at the discretion of the City Manager.~~
- ~~E~~ D. Each department head will be responsible for approving sick leave, and he/she may do so only for valid reasons, and after an employee informs him/her of his/her intention not to report for work. Unless the employee is hospitalized, he/she will be responsible for notifying the department head of his/her intended absence each day of his absence, even when such absences are consecutive. ~~All sick leave requests must state the reason of sickness.~~ Sick leave may be used by an employee tending to medical needs of an immediate family member or a member of the employee's household.
- ~~F~~ E. The department head responsible for approving sick leave may require a doctor's examination for the employee(s) requesting the sick leave, and if the illness is verified by the City doctor, the City will assume the cost of the physical. If the City doctor judges the employee to be fit for duty, the employee will report for duty or be taken off sick leave. If an employee refuses to undergo examination as provided for in this subsection, the employee will report for duty or be taken off sick leave.
- ~~G~~ F. The City will provide shots for all waterborne diseases as recommended by the State Health Department at the expense of the City and the voluntary acceptance of the employee. Any employee refusing immunization as recommended by the State Health Department shall acknowledge so, in writing, to the City on a form provided by the Employer.
- ~~H~~ G. Employees covered by this Agreement, who have accumulated the maximum amount of sick leave possible (under the terms of this Agreement – 960 hours), as of March 31st of each year, shall be eligible to receive forty (40) hours of leave with pay, or in the alternative, to work and to receive forty (40) hours of extra pay (at the employee's normal, regular hourly rate). If an employee chooses to take the time off, he may do so only at a time designated by the City Manager during the following fiscal year of the City. Such additional time off or pay shall be deducted from the employee's accumulated sick leave.
- ~~I~~ H. In the event of an off-duty or non-work related illness, the employee shall utilize any accumulated sick leave consecutively during the employee's absence from duty until all accumulated sick leave shall be exhausted. Thereafter, the employee shall be deemed absent from work with permission consistent with this Agreement

and past practice, but such absence shall not be deemed an excused absence under the Holiday section.

- ↓ J. Under no circumstances may an employee have a negative balance in sick leave. Any time off in such regard would have to be taken without pay and approved by the employee's supervisor.
- J. Earned Sick Time Act: For up to seventy-two (72) hours per year, each employee may use sick leave for the reasons set forth in the Earned Sick Time Act, MCL 408.964. This includes the purposes set forth in **Article 19 Schedule B (FMLA)**, as well as the closure of the Employer's business due to a public health emergency, for meetings at a child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child. However, for the purposes of leaves under this provision, "immediate family" defined in **Article 3, Section 2 (Bereavement Leave)** shall also include a domestic partner; an individual related by blood to the employee; and an individual whose close association with the employee is the equivalent of a family relationship.
- K. Employees should provide at least seven (7) days' notice of the need for leave when leave is foreseeable and within the annual seventy-two (72) hours available to be taken for these purposes. When the need for leave is unforeseeable, employee should notify the Employer of the need for leave immediately following their becoming aware of the need for leave. Notice shall be provided **by calling the appropriate Department Head** and, thereafter, submitting any documentation the employee wants considered. Employees shall not receive occurrences under the Employer's attendance policy for up to seventy-two (72) hours of leave taken for these purposes but may be subject to discipline for not providing appropriate notice and/or leave taken for other purposes.

SECTION 2. FUNERAL BEREAVEMENT LEAVE: Emergency leave will be granted in the event of a death in the immediate family for days which fall within the scheduled workweek as follows:

- A. Five (5) consecutive working days emergency leave will be granted in the case of death of the spouse, mother, father, or children of the employee, or in the case of the death of mother-in-law, father-in-law, sister, brother, daughter-in-law, son-in-law, grandmother, grandfather or grandchild of the employee. **Funeral Bereavement** leave will begin the next day after death and will include weekends and holidays.
- B. The five (5) consecutive working days shall begin with the day after of death and shall end on the date of the funeral. The employee must attend the funeral to receive this benefit. In the discretion of the City, appropriate adjustments in individual cases may be made to fulfill the intent of this provision.
- C. In the case of a delayed service, winter service with spring burial, or other unusual circumstance, the employee may reserve one (1) day of bereavement leave and utilize it at the time of the memorial service or burial.

SECTION 3. LEAVE OF ABSENCE: Leave of absence without pay may be obtained with the written permission of the City Manager for a period not to exceed one (1) year. The City Manager shall be the sole determiner for the necessity of the request for a leave of absence.

ARTICLE 4 **SENIORITY**

SECTION 1. Seniority shall be defined for the purpose of this Agreement as the net credited service of the employee. Net credited service shall mean continuous employment with the Employer beginning with the date and hour on which the employee began to work after last being hired, including paid sick time, time off compensable by Worker's Compensation, time off due to service in the Armed Forces of the United States, and other authorized paid time off.

SECTION 2. New permanent employees will be considered probationary employees for a period of not less than six (6) months from the date of initial, continuous, full-time employment. An employee may be terminated at any time during the trial service period by the appointing authority without the right of appeal or a hearing.

SECTION 3. Seniority shall be on a departmental and bargaining unit basis for the purpose of departmental advancement and the Employer will post departmental seniority lists annually.

SECTION 4. In the event of layoff in any department, employees shall be laid off in inverse order of seniority, the employee in the department with the least seniority being the first laid off. Recall shall be on the basis of seniority, the last man laid off to be the first recalled.

Laid off employees may displace a less senior employee in accordance with Section 6 of this Agreement.

Employees desiring to transfer to a job opening in another City department must indicate a desire to do so within five (5) working days from the time the layoff occurs. Notification in writing must be presented to the City Manager.

SECTION 5. Laid off employees will remain on the seniority lists for a period of two (2) years or length of their employment, whichever is less, and shall be given a written notice of recall to their last registered address with the City.

SECTION 6.

- A. City employees with a minimum of one (1) year of service credit desiring to transfer from one City department to another shall be allowed to do so, but only after the employees in the department in which the vacancy occurs have had the opportunity, in order of seniority, to fill the position; and that the employee desiring such transfer applies to the City Manager within five (5) working days from the time the position is posted by the City Manager as being open. Vacancies will be filled within fifteen (15) days of such posting. Unless an employee is transferring through

the layoff displacement procedure, below, an employee may only transfer departments one time per year, calculated from the start date in the new position.

- B. Laid off employees may displace a less senior employee when the conditions listed below are met.

Employees seeking such inter-departmental transfers or seeking to displace less senior employees must:

1. Possess a license, permit, or certificate necessary to perform the job which he/she is seeking; or evidence sufficient skill, training and aptitude to qualify for such licenses, permits or certificates within a reasonable period of time.
 2. Must display by experience, prior training or testing results an aptitude for the position for which he/she is applying.
 3. An employee seeking an inter-departmental transfer or seeking to displace less senior employees must also pass a physical examination by the City physician if such exam is requested by the City.
- C. Employees who successfully complete the requirements for inter-departmental transfers or displace a less senior employee shall be placed on a thirty (30) day probationary period in their new position, and, if the City determines the employee, after the thirty (30) day trial period, is unqualified to hold that position, the employee shall be returned to his/her formal position with no loss of seniority. Unqualified employees that have displaced less senior employees will then be laid off and the displaced worker will be given a written recall notice.

SECTION 7. Employees shall lose their seniority for the following reasons:

1. He/she voluntarily quits;
2. He/she is discharged and the discharge is not reversed through the procedures set forth in this Agreement;
3. He/she is absent for two (2) working days without notifying the Employer. The Employer shall send written notice to the employee at his last known address that he has lost his seniority, and that his employment has been terminated.
4. He/she does not return to work within ten (10) days of the mailing of written notice of recall by the Employer to the employee's last known address by Certified Mail.

SECTION 8. An employee who is injured while on duty shall continue to accumulate seniority during his absence due to such injury, and shall be reinstated upon recovery to his former position with full seniority rights, provided he is physically qualified to return to work.

SECTION 9. In selecting employees for promotions three (3) factors shall be considered with percentage weight being as follows:

Test	-	33 – 1/3%
Seniority	-	33 – 1/3%

Employees shall be given a three (3) month trial period on such new job, and shall reserve the right to return to their former position at the end, or during such three (3) months.

SECTION 10. If the promoted employee elects to return to the unit, or if the employee is required to return to the former position by a reduction in force within one hundred twenty (120) days of the promotion, the employee shall return to the unit position without loss of seniority and with seniority accumulated during the one hundred twenty (120) day period. Thereafter, an employee promoted to a supervisory position outside the unit may return to the unit by reason of a reduction in force, for reasons of health or for other non-voluntary reason, but the employee shall not accumulate seniority during the time the employee occupied the supervisory non-unit position. The employee will retain all seniority accumulated at the time of promotion.

SECTION 11. The competitive testing process as described in “Section 9”, above, may be waived if only one employee/operator is interested in the position and the following conditions are met; (1) The department supervisor agrees that the only employee interested possess the requisite skill and ability and; (2) All other eligible employees waive the testing requirement.

ARTICLE 5 **GRIEVANCE AND ARBITRATION**

SECTION 1. In the event a dispute arises during the term of this Agreement, it shall be handled under the following procedure:

STEP 1: Between the employee and his or her immediate supervisor, and/or the employee's steward if such employee so elects, within five (5) working days, excluding Saturday and Sunday, of the alleged dispute.

STEP 2: Between the Business Agent and City Manager within five (5) working days, excluding Saturday and Sunday, of the Step 1 meeting.

SECTION 2.

A. In the event that satisfactory adjustment cannot be reached within ten (10) days of the Step 2 deadline between the parties to this Agreement, the matter in dispute shall be submitted to a mediator, if desired by either party. If a satisfactory adjustment cannot be reached within forty-five (45) days of mediation, the matter shall be submitted to arbitration as follows:

A request for arbitration will be filed with the Michigan Employment Relations Commission. Each party shall bear the expense of its representative. The expense of arbitration shall be equally divided between the Union and the City. There shall be no suspension or refusal to handle work during negotiations or arbitration. The decision of the arbitrator shall be final and binding.

- B. The Board of Arbitration shall have no power to add to, or subtract from or modify any of the terms of this Agreement.
- C. Grievances with respect to matter of transfer, promotion, demotion, discipline, layoffs, or discharges shall be presented to the City in writing within ten (10) working days, excluding Saturday and Sunday, from the date of such transfer, promotion, demotion, discipline, layoff or discharge.
- D. The Employer may bring issues before the Board of Arbitration, assuming that the same restrictions as to adjustable issues are applied to the Employer as to the employees.
- E. Under no circumstances will services be stopped, slowed or otherwise impaired while the above procedures are underway.
- F. All grievances must be submitted in writing within five (5) working days, excluding Saturday and Sunday, from the date it becomes reasonably evident a dispute exists.
- G. A grievance must be related to a dispute about actual terms of this Agreement.
- H. Time limits set forth in Article 5 may be extended by mutual agreement.

ARTICLE 6

DISCIPLINARY ACTION

SECTION 1. It is agreed that nothing herein shall in any way prohibit the Employer from discharging or otherwise disciplining any employee, regardless of seniority, for just cause. Grounds for summary discharge shall include, but not be limited to drunkenness or drinking on the job, dishonesty, unreported absence from work of two (2) days, careless use or abuse of City property, failure to report for a physical exam when so ordered by the Employer during claimed sick leave, willful or wanton or grossly negligent misperformance of duties, incompetence or insubordination.

SECTION 2. In the event the discharged employee feels that he has been unjustly dealt with, said employee or the Union, shall have the right to file a complaint with the Employer, which must be in writing, and which must be submitted to the Employer as required by the grievance procedures of this Agreement. Said complaint will be treated as a grievance and shall be subject to the grievance procedure herein provided. If no complaint is filed within the time limit specified in the grievance procedure, then said discharge shall be deemed to be final in all events.

ARTICLE 7

DEPARTMENTS, WAGE RATES, AND CLASSIFICATIONS

Schedule "A" attached hereto and made a part of this Agreement, is a schedule showing the departments, wage rates, and classifications.

ARTICLE 8 **HOLIDAYS**

SECTION 1. HOLIDAYS DEFINED: Full holiday when used herein, shall mean a full twenty-four (24) hours commencing at 12:00 midnight on the eve of the holiday and ending at 12:00 midnight on the night of the holiday.

SECTION 2. CONDITIONS FOR GRANTING PAY ON HOLIDAYS: Employees shall receive no pay for holidays unless they work their scheduled workdays preceding and succeeding such holiday; providing, however, that if either of these two days is vacation time, sick leave or an excused absence, it shall be accepted.

All employees shall be entitled to pay for holidays, subject to the conditions contained herein.

SECTION 3. THE FOLLOWING HOLIDAYS WILL BE RECOGNIZED:

- A. Day before New Year's Day (December 31st); New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; day after Thanksgiving, day of December 24th and Christmas Day; Employee's Birthday: For the Birthday Holiday, eight (8) hours will be given off within the fiscal year.
- B. If a holiday falls on a non-working day, the employees shall celebrate the holiday on the day which falls on the closest working day to the holiday.
- C. Employees working holidays will be compensated as follows:
 - 1. **WORK DURING REGULAR SHIFTS:**
Base rate x 1 ½ for hours worked,
plus eight (8) hours holiday pay for full holiday.
 - 2. **WORK OTHER THAN DURING REGULAR SHIFT HOURS:**
Rate – Base rate x 1 ½ x hours worked.
 - 3. **CALL-INS ON RECOGNIZED HOLIDAY:**
Employees who are called in to work on a recognized holiday outside of their regular scheduled shift shall be compensated at two (2X) times their base hourly rate for all hours worked, in addition to eight (8) hours holiday pay where applicable. A minimum of three (3) hours shall apply for any holiday call-in.
- D. On holidays requiring garbage collection, qualified employees shall be offered the opportunity to perform such work, in order of seniority. Any work performed shall be treated as work during the employee's regular shift and compensated in accordance with Section C(1) above.

ARTICLE 9 **VACATIONS**

SECTION 1. Vacation leave with pay will be granted to all permanent full-time employees. ~~who have completed one (1) year of service on April 1st of each year.~~

SECTION 2. ~~Part years of service shall be pro-rated for the first year.~~

SECTION 3.2. Vacation schedules are subject to the approval of the department head who is charged with the responsibility of insuring that vacation time granted will not seriously impair the operation of his department.

SECTION 4.3. The following formula will be used with the anniversary date being the employee's date of hire.

ANNIVERSARY DATE	VACATION ACCRUAL	
	PER PAY PERIOD	ANNUAL
Upon hire: 40 hours + Pay Period Accrual	0	40.00 Hours +
Upon hire to 1 st Anniversary Date	1.54 Hours	40.04 Hours
1 st to 5 th Anniversary Dates	3.08 Hours	80.08 Hours
6th <u>5th</u> to 10 th Anniversary Dates	5.00 Hours	130.00 Hours
11th <u>10th</u> to 15 th Anniversary Dates	7.00 Hours	182.00 Hours
16th <u>15th</u> + Anniversary Dates	8.00 Hours	208.00 Hours

SECTION 5.4. Any employee requesting vacation leave will apply at least forty-eight (48) hours in advance, except for particular periods of time when the department head may deem it necessary to prepare schedules covering particular periods of time; said schedules to be prominently posted within the department for at least two (2) weeks.

SECTION 6.5. Seniority along with departmental personnel needs will be the determining factors in apportioning vacation.

SECTION 7.6. Pre-approved vacation schedules (See Section 5) will be declared closed on specific dates as advertised by the department head and will no longer be subject to change because of seniority; however, such permission may be revoked by the department head when departmental needs dictate such action.

SECTION 8.7. With the single exception enumerated, below, employees terminating their City employment will be entitled to pay of the unused and accrued portion of their vacation leave to the last date of their employment. The last date of City employment is declared to be the last date on which an employee worked a full shift. Employees who terminate employment with the Employer prior to having one (1) full year of service credit shall not be paid out any vacation time upon separation.

SECTION 9.8. All employees are required to take their allotted vacations each year, unless permission to the contrary is granted by the City Manager.

SECTION 10.9. Employees are allowed to accrue up to a maximum of two hundred seventy five (275) hours of vacation at any one time. Upon obtaining two hundred seventy five (275) hours, the employee would be required to use vacation and not accrue any further vacation until their total was below two hundred seventy five (275) hours.

SECTION 11 10. Under no circumstances can there be a negative balance in vacation. Any time off in such regard would have to be taken without pay and approved by the employee's supervisor.

ARTICLE 10

HOURS OF WORK, OVERTIME, AND PREMIUM PAY

SECTION 1. The provisions of this Article are intended to provide a base for determining the number of hours of work for which an employee shall be entitled to be paid at overtime rates and shall not be construed as a guarantee to such employee of any specified number of hours of work, either per day or per week, or as limiting the right of the City to fix the number of hours of work (including overtime) either per day or per week for such employee.

SECTION 2. Time and one-half (1.5) x the regular hourly rate shall be paid for all hours worked beyond eight (8) hours for employees scheduled for five (5) eight (8) hour days or beyond ten (10) hours for employees scheduled for four (4) ten (10) hour days in any twenty four (24) hour period from 7:00 A.M. to 7:00 A.M. the following day, and for all work beyond forty (40) hours in any one week period, or eighty (80) hours in a two week period. If employees run into the next scheduled day, employees will receive overtime pay. All consecutive hours worked beyond twelve (12) hours will be compensated at double time (2x) the employee's regular hourly rate.

SECTION 3. The hours of work and specific shift assignments will be determined by the department head, except the part-time or seasonal help shall not be assigned to work when regular employees are not working.

SECTION 4. Any employee who responds to a call back to duty after having been released from the regular day's work, or on days other than his/her scheduled workdays, and who works less than one (1) hour, shall be paid for three (3) hours at one and one-half times (1.5X) hourly rate, weekends ~~and holidays~~ included. Holiday call-ins will be paid at the overtime rate specified in Article 8, Section C(3).

If the most senior employee cannot be reached for call out, the next most senior qualified employee will be contacted. Once an employee is placed on standby or called out, that employee will then be the one to get the work.

Call back to duty will be by the City Manager or the employee's department head.

For purpose of Call-Outs, vacation goes midnight to midnight.

Once an employee reaches the age of 60, he will have the option of being on call or not.

SECTION 5. INCLEMENT WEATHER: Employees who work on days that weather conditions cause City Hall to be closed for the full day will be paid time and one-half (1-1/2X) for their shift. Should City Hall close for less than a full day, employees will receive pay at time and one-half (1-1/2X) for time worked on the day of the closure, equivalent to the length of the closure. City Hall employees will ~~either use vacation or work from home with their supervisor's approval.~~ depending on notice of City Hall closure, either take the full day or remaining portion of their shift off with pay at their regular rate.

SECTION 6. Employees working on a regularly scheduled Sunday shift shall be paid at the rate of time and one-half (1-1/2X) for Sunday work.

SECTION 7. Employees shall receive two fifteen (15) minute breaks each workday, which shall be allowed at the direction of the City Manager.

SECTION 8. On basis of seniority per job class, personnel shall receive available overtime on garbage routes, and if additional personnel are required, assignment of overtime shall be first to laborers in the Department of Public Works before assignment to other classifications or departments.

SECTION 9. The City will pay twenty dollars (\$20.00) per day for each half day and forty dollars (\$40.00) for each full day that an employee acts in the capacity of a relief supervisor. This is subject to prior approval by the City Manager. The position of Maintenance and Janitorial is exempt from this provision when receiving time and one half (1-1/2X) pay for Sunday shifts.

SECTION 10. The normal workweek and workday for Public Works and Water and Wastewater employees shall be five (5) eight (8) hour days, Monday through Friday, between the hours of 7:00 A.M. and 3:30 P.M., allowing for a one-half hour lunch period. DPW, Water and Wastewater will consider a ten (10) hour, four (4) day schedule upon mutual agreement between the Union and Management.

City Hall employees' normal workweek and workday shall be five (5) eight (8) hour days, Monday through Friday, between the hours of ~~7:30~~ 8:00 A.M. and 4:30 P.M., allowing for a lunch period as specified by their supervisor. Between Memorial Day and Labor Day of each year, City Hall employees may work a modified summer work schedule. The standard work week during the summer schedule will consist of four (4) ten (10) hour shifts, Monday – Thursday, with Friday scheduled off. The typical summer schedule workday will be from 7:00 A.M. to 5:30 P.M., including a 30-minute unpaid lunch period. For overtime purposes, the regular workday within the summer schedule is ten (10) hours.

Maintenance and Janitorial will have a flexible work week posted two (2) weeks in advance. It shall be five (5) consecutive eight (8) hour days or four (4) consecutive ten (10) hour days allowing for a half (1/2) hour lunch period. The schedule for Maintenance and Janitorial will be posted two (2) weeks prior to the start of the work week. Start times may vary but the employee will have twelve (12) hours down time between shifts.

~~The DPW will consider ten (10) hour, four (4) day shifts upon mutual agreement between the Union and Management.~~

SECTION 11. Compensatory time will be earned at one and one half (1-1/2) time. The maximum accrual will be eighty (80) hours. Any hours exceeding the limit of eighty (80) hours will be paid according to contract. Once annually, at the employee's discretion, they may "cash out" forty (40) hours of banked compensatory time, to be paid at their current hourly rate.

SECTION 12. An employee temporarily transferred to a higher paid position within his/her classification in an emergency such as sickness, vacations, cover lunch hours,

etc. shall receive the higher rate of pay and if transferred to a lower rate position shall receive his/her regular pay.

Item 8.

ARTICLE 11
HOSPITALIZATION – MAJOR MEDICAL,
DENTAL INSURANCE & LIFE INSURANCE

SECTION 1. The Employer will make available to eligible employees and their dependents health and welfare benefits as provided by Michigan Conference of Teamsters Health and Welfare Fund (MCTWF). The Employer agrees to the terms and conditions of the Participation Agreement with MCTWF and shall contribute the following amounts for each eligible employee within the Bargaining Unit.

PLAN 993	
DATE	WEEKLY PREMIUM
Effective 04/01/23	\$422.15 per week
Effective 04/02/23 to 03/30/24	\$440.35 per week
Effective 03/31/24 to 03/29/25	\$465.30 per week
Effective 03/30/25 to 03/28/26	\$484.35 per week
Effective 03/29/26 to 03/31/26	Maintenance of Benefit

PLAN 993	
DATE	WEEKLY PREMIUM
Effective 04/01/26 to 04/03/27	\$504.25 per week
Effective 04/04/27 to 04/01/28	\$518.60 per week
Effective 04/02/28 to 03/31/29	\$545.80 per week

For each plan year during the term of this Agreement, the Employer's contribution toward the cost of Michigan Conference of Teamsters Welfare Fund Base Medical Benefits and Prescription Drug Benefits will use the annually adjusted hard caps as set forth in PA 152 of 2011. The annual hard cap adjustment based on the change in the medical care component of the C.P.I. will occur in the first pay period in April of each year of the Agreement. All premium costs above those remitted by the Employer will be paid through an IRS 125 Plan through weekly payroll deduction.

The hard cap aggregate and employee premium share will be calculated as per longstanding past practice that complies with State Law.

Employee premium share will be paid through an IRS 125 Plan.

SECTION 2. The Employer will contribute the weekly amounts in the following schedule to a Retiree Health Savings Account for all employees.

~~4/01/23 — 03/31/24 04/01/24 — 03/31/25 04/01/25 — 03/31/26~~
~~\$50.00 per week \$50.00 per week \$50.00 per week~~

4/01/26 – 03/31/27

\$50.00 per week

04/01/27 – 03/31/28

\$50.00 per week

04/01/28 – 03/31/29

\$50.00 per week

Item 8.

SECTION 3. The Employer agrees to furnish at no cost to the employee, a term life policy in the amount of one times base year's salary (with double indemnity for accidental death/dismemberment) for each employee. In addition, the employee's spouse is covered for four thousand dollars (\$4,000.00). Dependent children of the employee are covered for one hundred dollars (\$100.00) (birth to six months) and two thousand dollars (\$2,000.00) (six months but less than nineteen years to twenty-one years if a full-time student).

SECTION 4. The City will pay three (3) months health insurance premiums while employees are on layoff.

SECTION 5. Current employees opting out of the health insurance will receive the opt out payment they currently receive. New opt outs will receive one half of the premium less the cost of the dental and optical benefit in the plan package at the time of their opt out. Opt out payments will be capped at that amount for all future opt out periods for the employee. Employees opting out will also receive Michigan Conference of Teamsters Dental and Optical Plan 122.

SECTION 6. During the term of this Agreement, should the State of Michigan substantially modify, repeal, or replace PA 152 of 2011 (Publicly Funded Health Insurance Contribution Act), both the Employer and Union agree to revisit the terms and conditions of this Article and collectively bargain over suitable replacement language.

ARTICLE 12 **WORKERS' COMPENSATION**

SECTION 1. All employees injured or incapacitated in the actual discharge of duty shall receive compensation and medical care, subject to the provisions of the Michigan Workers' Compensation Act, subject to the limitations in sub-section (b). If an employee wants a full paycheck, they can use their sick leave, vacation time, or comp time.

SECTION 2. Such additional payment shall be known as Supplementary Workers' Compensation.

It shall not apply:

1. In partial incapacity cases when an employee refuses to accept limited duties after certification for such duties by a physician.
2. When an employee terminates, through death, retirement or other reason.
3. When injury results from misconduct or negligence.
4. When the employee's injury claim is disputed by the City through lack of visual evidence or other reasonable proof.

SECTION 3. The provisions of Section (a) and Section (b) are subject to the legal limitations as provided for in the Michigan Workers' Compensation Act as well as the City's authority to continue as a self-insured employer under Michigan Law.

SECTION 4. In order to qualify for the additional payment provided above, the employee shall give notice to the City of the injury within forty-eight (48) hours of the occurrence.

SECTION 5. The City will pay the health insurance premium while an employee is on Workers' Compensation for up to six (6) months.

SECTION 6. All employees will be paid for all time spent and remain on clock while undergoing medical attention due to injuries that occurred at work.

ARTICLE 13 **LONGEVITY PAY**

After completing one (1) full year of service as of November 1st, each employee shall receive annually on the pay day closest to December 1st, longevity pay equivalent to the continuous years of service chart, below.

CONTINUOUS YEARS OF SERVICE	LONGEVITY PAYMENT
1 - 5 Years	\$ 500.00
6 - 10 Years	\$ 750.00
11 - 15 Years	\$1,000.00
16 - 20 Years	\$1,250.00
21 - 24+ Years	\$1,500.00
25 + Years	\$2,000.00

ARTICLE 14 **RETIREMENT**

~~New hired employees after December 31, 1997, will be provided with Defined Contribution Retirement System (currently offered through the Municipal Employees' Retirement System). For this benefit, the City will contribute eight percent (8%) of the employees wage to the defined benefit program. The City will also match an additional three percent (3%) employee contribution, if the employee elects to make the additional three percent (3%) contribution.~~

~~For employees hired after March 31, 2014 the City will contribute eight percent (8%) of the employee's base wage to the Defined Contribution Retirement System. The employee may contribute up to an additional three percent (3%) and the City will match up to three percent (3%) of the additional contribution. Effective April 1, 2026, the Employer shall contribute an amount equal to twelve percent (12%) of the employee's base wage to the defined contribution retirement program. Employees shall contribute a mandatory four percent (4%) of base wage to the same program.~~ Employee contributions are pre-taxed.

ARTICLE 15

WORKING SUPERVISORS

It is not the intention of the Employer to deprive any employee of work by assigning extra additional work or duties to a foreman or supervisors. However, it is understood and agreed by the Employer and the Union that certain supervisors and foreman of the Employer have been performing all of the regular duties that are currently performed by their subordinates. Such a performance of these duties is necessitated by the size of the Employer and by the nature and extent of the duties and departments of the Employer. It is understood and agreed that the following supervisors and foreman can continue to perform all of the duties that they are now performing and that are performed by their subordinates; Supervisor of the Water and Wastewater, Supervisor of the Electrical Department; and the Foreman and Supervisor of Public Works.

ARTICLE 16

UNIFORMS AND PROTECTIVE CLOTHING

The Employer agrees to provide all safety equipment and protective clothing as it determines are necessary to carry out the job or as required by law. Each employee will be provided with five hundred fifty dollars (\$550.00) (three hundred (\$300.00) for clothing and two hundred fifty (\$250.00) for safety boots, if required) during each fiscal year to allocate towards the purchase of safety boots and clothing. Employee reimbursements ~~will~~ shall be paid after submitting receipt of purchase. ~~in the next full pay period following the submitted receipt of purchase.~~ Purchases must be completed prior to March 31st and there will be no carryover of benefit from one fiscal year to the next.

ARTICLE 17

GENERAL

SECTION 1. Employees leaving work for personal reasons, such as for a doctor or dental appointment, shall not be paid for any time absent from his job duties with the City; and said employee must secure written permission from the department head a minimum of twenty-four (24) hours preceding any such appointment. If an employee's department head grants permission for the employee to make such an appointment, the employee may be paid if he/she deducts the time absent from his/her job duties from the amount of the employee's accrued sick leave.

SECTION 2. VOLUNTEER FIREMEN: This Agreement specifically does not cover volunteer firemen, whether they be regular employees of the City or not. If any regular employee of the City is working as a volunteer fireman, he shall be considered solely a volunteer fireman, and shall not be entitled to benefits in his regular capacity with the City while he is working as a volunteer fireman.

SECTION 3. OTHER WORK BY CITY EMPLOYEES: Employees understand that employment with the City of Gladstone needs to be their first employment priority. Any employee seeking part-time work with another Employer shall apply to the City Manager requesting special permission to do so.

SECTION 4. There shall be no strike or lock-out during the term of this Agreement.

SECTION 5. Employees called on to perform temporary work in a higher classification shall receive the higher rate of pay for all time so worked. An employee performing temporary work in a lower classification shall continue to receive his regular rate of pay. This clause shall not apply to job demotions.

SECTION 6. The workweek and workdays in Schedule "A" are subject to the provisions of ARTICLE 2 of this Agreement.

SECTION 7. RESIDENCY REQUIREMENT: Pursuant to Public Act No. 212 1999 effective March 10, 2000, each employee under the terms and provisions of this Agreement shall, as a condition of employment, reside within twenty (20) miles of the City of Gladstone city limits.

Newly hired individuals need not immediately reside within the allotted twenty (20) miles of the city limits, but shall within a ninety (90) day period from date of hire.

Failure of an employee to maintain his/her residency within twenty (20) miles of the city limits within ninety (90) days of hire and the failure of a newly hired employee to reside within the twenty (20) miles of the limits within ninety (90) days as herein provided shall be the grounds for discharge of such person from city employment.

The term and provisions of the City of Gladstone Ordinance No. 368, adopted September 27, 1971, effective October 5, 1971, were superseded by Public Act 212, 1999, effective March 10, 2000.

SECTION 8. CELLULAR PHONES: Each employee that is required to carry a cell phone, is responsible for purchasing their own cellular phone; however, the Employer agrees to provide for and pay in full, the City's monthly basic cellular service plan. City Hall employees who are required to carry a cell phone and do not join the City cellular plan will be provided with a fifty dollar (\$50.00) per month cellular phone stipend. ~~This section replaces the City's Cellular Phone Plan Policy's section titled, "Reimbursement for Employee-Owned Phone Plan".~~ All other City cellular phone guidelines in the Policy will be followed.

ARTICLE 18

SEPARABILITY AND SAVINGS CLAUSE

If any Article or Section of this Contract, or of any rider thereto, shall be held invalid by operation of law, or by any tribunal or competent jurisdiction, or if compliance with or enforcement of any Article or Section should be restrained by such tribunal pending final determination as to its validity, the remainder of this Contract and of any rider thereto, or the application of such Article or Section to persons or circumstances other than those as to which it has been held invalid, or as to which compliance with or enforcement of has been restrained, shall not be affected thereby.

In the event that any Article or Section is held invalid or enforcement of or compliance with which has been restrained as above set forth, the parties affected thereby shall enter into immediate collective bargaining negotiations upon the request of such Union, for the purpose of arriving at a mutually satisfactory replacement for such

Article or Section during the period invalidity or restraint. If the parties do not agree on a mutually satisfactory replacement, either party shall be permitted all legal recourse in support of its demands, notwithstanding any provision in this Contract to the contrary.

Item 8.

ARTICLE 19
TERM OF THIS AGREEMENT

SECTION 1. This Agreement shall be in full force and effect from April 1, ~~2023~~ 2026, and shall continue in full force and effect until midnight March 31, ~~2026~~ 2029, and for successive annual periods thereafter, unless not more than one hundred twenty (120), but at least ninety (90) days prior to the end of its original term or of any annual period thereafter, either party shall serve upon the other, written notice that it desires termination, revision, modification, alteration, renegotiation, change or amendment, or any combination thereof, shall have the effect of terminating this Agreement in its entirety on the expiration date in the same manner as a notice of desire to terminate unless, before such date of termination, all subjects of agreement proposed by either party have been disposed of by agreement or by withdrawal by the party proposing amendment.

SECTION 2. The Union shall, at the time it notified the Employer by written notice, that it desires termination, revision, modification, alternation, negotiation, change or amendment or any combination thereof of this Agreement, submit in writing to the Employer, any and all of its suggested revisions, modifications, alternations, changes or amendments to this Agreement. In the event that the Union shall fail to submit in writing the items enumerated above when it shall be required to do so under this Article, then the parties covenant and agree that the notice of termination, revision, modification, alteration, renegotiation, change or amendment served by the Union upon the Employer shall be null and void and of no force and effect whatsoever, and the present contract shall continue for a like term.

In the event of any notice above referred to, the parties shall begin to hold negotiation meetings no later than ten (10) workdays following the receipt of such notice.

IN WITNESS WHEREOF, the parties hereto have caused their names to be subscribed by their duly authorized officers and representatives this _____ day of _____, ~~2023~~ 2026.

**CITY OF GLADSTONE,
MICHIGAN**

**GENERAL TEAMSTERS
LOCAL UNION NO. 406**

BY: _____
~~Eric Buckman~~ Robert Spreitzer
City Manager

BY: _____
Ellis P. Wood
Principal Officer
Secretary-Treasurer

DATE: _____

DATE: _____

BY: _____
Anthony LaPlant
Business Agent

DATE: _____

SCHEDULE "A" - CLASSIFICATIONS AND PAY SCALES

Item 8.

CLASSIFICATIONS	HOURLY EFFECTIVE RATES		
	04/01/2026* + \$2.00	04/01/2027 + \$1.50	04/01/2028 + \$1.30
<u>HEAVY EQUIPMENT OPERATORS:</u> Cranes, bulldozers, large front end loaders, graders, and small back-hoes	\$31.65	\$33.15	\$34.45
Lead/Senior Operator – additional \$1.25 to base rate.			
<u>LIGHT EQUIPMENT OPERATORS:**</u> Trucks with V-plows, underbody scrapers, scrapers, street sweepers, and trackless unit	\$30.05	\$31.55	\$32.85
With the permission of the DPW Supervisor, those in this classification may train to become a Heavy Equipment Operator. Wages will be according to the following scale: Year 1 = 95% of Heavy Equipment Rate Year 2 = 97.5% of Heavy Equipment Rate Year 3 = 100% of Heavy Equipment Rate			
	\$29.27	\$30.77	\$32.07
<u>MISCELLANEOUS EQUIPMENT & LABORERS:</u> Single axle trucks, mowers, hand tools, dump trucks, and other motor-driven equipment	\$29.27	\$30.77	\$32.07
<u>PUBLIC WORKS COORDINATOR:</u>	\$39.46	\$40.96	\$42.26
<u>SHOP PERSONNEL: HEAD MECHANIC:</u> Head Mechanic 1. Mechanic shall receive an additional \$.25 per hour for having a state mechanic license. 2. Mechanic to receive same rate as Heavy Equipment Operator rate. 3 2. The Employer will cover all licenses and fees. Any vehicle requiring a CDL is paid light equipment for all DPW employees. Any employee required to have a CDL will be paid an extra \$.25 per hour.	\$31.65	\$33.15	\$34.45

SCHEDULE "A" - CLASSIFICATIONS AND PAY SCALES

Item 8.

CLASSIFICATIONS	HOURLY EFFECTIVE RATES														
	04/01/2026* + \$2.00	04/01/2027 + \$1.50	04/01/2028 + \$1.30												
<u>WATER AND WASTEWATER DEPARTMENT:</u> The workweek and workday in the Water and Wastewater Departments shall be as scheduled, including shifts and weekends.															
<u>WATER AND SEWAGE OPERATOR:</u>	\$30.05	\$31.55	\$32.85												
<u>LICENSED WATER & SEWER OPERATOR:</u>	\$30.84	\$32.38	\$33.68												
<u>SENIOR WASTEWATER TECHNICIAN:</u>	\$1.25 plus base rate														
<u>SENIOR WATER OPERATOR:</u>	\$1.25 plus base rate														
In addition to adjusting the wage rates, the provision for license premium should be adjusted by providing the following:															
<table><tr><td>F4 \$.25</td><td>S4 \$.25</td><td>D \$.50</td></tr><tr><td>F3 \$.75</td><td>S3 \$.75</td><td>C \$1.50</td></tr><tr><td>F2 \$1.50</td><td>S2 \$1.50</td><td>B \$3.00</td></tr><tr><td>F1 \$2.00</td><td>S1 \$2.00</td><td>A \$4.00</td></tr></table>				F4 \$.25	S4 \$.25	D \$.50	F3 \$.75	S3 \$.75	C \$1.50	F2 \$1.50	S2 \$1.50	B \$3.00	F1 \$2.00	S1 \$2.00	A \$4.00
F4 \$.25	S4 \$.25	D \$.50													
F3 \$.75	S3 \$.75	C \$1.50													
F2 \$1.50	S2 \$1.50	B \$3.00													
F1 \$2.00	S1 \$2.00	A \$4.00													
License rates will stand alone with regard to wage increases from one year to the next, and any percent increase in wage base will not be applied to the license pay.															
All Departments: All license premiums and certificate premiums will be paid on overtime, holidays, and vacations.															
<u>CITY HALL EMPLOYEES:</u>															
<u>UTILITY BILLING CLERK:</u>	\$28.71	\$30.21	\$31.51												
<u>GENERAL OFFICE CLERK:</u>	\$30.71	\$32.21	\$33.51												
<u>CASHIER:</u>	\$24.17	\$25.67	\$26.97												
<u>**INFORMATION SYSTEMS TECHNICIAN:</u>	\$32.23	\$33.73	\$35.03												
**The position of Information Systems Technician will be eliminated when Patricia LeBombard retires.															
<u>RECREATION DEPARTMENT:</u> Maintenance and Janitorial	\$29.27	\$30.77	\$32.07												
Year 1 = 90% of DPW Miscellaneous Equipment/Laborers Rate Year 2 = 95% of DPW Miscellaneous Equipment/Laborers Rate Year 3 = 100% of DPW Miscellaneous Equipment/Laborers Rate															

* All wages and related earnings shall be paid retroactively to April 1, 2026, within thirty (30) days of ratification.

** Upon mutual ratification, the incumbent Light Equipment Operator and Sanitation Operator will be migrated to top pay in the Heavy Equipment Operator classification, retroactive to April 1, 2026.

CDL AS A JOB CLASSIFICATION REQUIREMENT:

Employees assigned to positions within the Department of Public Works, Water Department, and Wastewater Department shall, as a condition of employment, obtain and maintain a valid Commercial Driver's License (CDL) Class B with Air Brake and Tanker endorsements. Failure to obtain or maintain the required license and endorsements within the time provided, for reasons within the employee's control and not protected by applicable law, may result in discipline, up to and including discharge. In determining the appropriate level of discipline, the Employer shall consider the nature of the loss, the employee's work record, length of service, and whether temporary reassignment, unpaid leave, or other reasonable alternatives are available. Employees who do not possess the required license and endorsements at the time of hire must obtain them within twelve (12) months following completion of their probationary period.

CDL TRAINING REIMBURSEMENT UPON VOLUNTARY SEPARATION:

Employees hired on or after April 1, 2026, whose CDL training is paid for by the Employer, agree to reimburse the Employer according to the following table if they voluntarily separate employment.

TIMEFRAME	PERCENTAGE
Within 12 Months	75%
Within 24 Months	50%
Within 36 Months	25%

If the employee is terminated at any time by the Employer, they will not have to reimburse the Employer for the CDL training cost.

FAMILY MEDICAL AND MILITARY LEAVE POLICY

INTRODUCTION: In compliance with the Federal Family and Medical Leave Act (FMLA), the City of Gladstone (City) will provide eligible employees up to twelve (12) weeks of unpaid family/medical leave within a twelve (12) month period. The FMLA allows “eligible” employees to take job-protected, unpaid leave or paid leave if the employee has earned or accrued it, for up to a total of twelve (12) workweeks in any twelve (12) months because of the birth of a child and to care for the newborn child, because of the placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee’s own serious health condition makes the employee unable to perform the functions of his or her job. The FMLA also allows an employee to take leave due to that employee’s family members being called to active military duty or being injured in the course of active duty. In certain cases, this leave may be taken on an intermittent basis rather than all at once, or the employee may work a part-time schedule.

To be eligible for coverage under the FMLA, an employee must have worked for the City for at least one thousand two hundred fifty (1,250) hours during the preceding twelve (12) month period, which averages out to a little less than twenty-five (25) hours a week. The FMLA does not cover many part-time employees because employees who work less than this amount of hours for the City are not entitled to leave under the FMLA.

A “serious health condition” is a condition or illness affecting one’s health to the extent that in-patient care is needed, or that absences are necessary on a recurring basis or for more than a few days for treatment or recovery. If in-patient care is not needed, an absence from work or school for more than three (3) days must occur along with the continuous treatment of a health care provider. However, a visit to a health care provider is not necessary for such absence where any leave is required because of any of the following: (1) pregnancy or prenatal care; (2) a chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity; or (3) a permanent or long-term condition (such as Alzheimer’s, stroke, terminal cancer) for which treatment may not be effective, where only supervision and not active treatment is required.

GENERAL LEAVE PROVISIONS: Eligible employees are entitled to a total of twelve (12) work weeks of leave during the twelve (12) month period measured backward from the date an employee uses FMLA leave, when leave is taken for one (1) or more of the following circumstances:

- (1) Due to the birth of a son or daughter of the employee, if the leave is taken within twelve (12) months of the birth,
- (2) Due to the adoption or foster care placement of the child of the employee, if the leave is taken within twelve (12) months of the placement,
- (3) To care for the spouse, son, daughter, or parent of the employee if such spouse, son, daughter or parent has a serious health condition,
- (4) Due to a serious health condition that makes the employee unable to perform the functions of his or her position.

MILITARY FAMILY LEAVE PROVISIONS: Eligible employees with a spouse, son, daughter, or parent in the National Guard or Reserves on active duty or called to active duty in support of a contingency operation may take up to twelve (12) weeks of FMLA leave for certain “qualifying exigencies.” A “qualifying exigency” includes: (1) the service member being called to short-notice deployment (seven (7) days or less; (2) military events and related activities; (3) child care and related activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; (8) any other event the employee and employer agree is a qualifying exigency.

In addition, eligible employees are entitled to up to twenty-six (26) weeks of leave to care for a parent, child spouse, or next of kin who is a member of the Armed Forces and has suffered an injury or illness incurred in the line of duty on active military duty that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating. This type of leave is available in a single twelve (12) month period. If an employee has taken FMLA due to one of the qualifying events listed above, the total combined amount of FMLA leave may not exceed twenty-six (26) weeks.

Any FMLA leave taken will be counted against the employee’s annual FMLA leave entitlement.

DEFINITIONS: A “Child” does not have to be a biological child. A “parent” does not need to be a biological parent as long as the person stood “in loco parentis” (in the place of the parent) to the employee when the employee was a “son” or “daughter.” FMLA leave may be taken to care for adopted children, foster children, legal wards, or a niece, nephew or grandchild whom the employee is actively raising. A “son or daughter” includes a child 18 years or over who is “incapable of self-care because of a mental or physical disability.” An individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities.

The City is not required by the FMLA to grant leave for any other relatives or individuals in the employee’s household. For FMLA purposes, a “spouse” is defined in accordance with applicable state law and may include common-law spouses in states where common-law marriages are recognized. Unmarried domestic partners generally do not qualify as spouses under the FMLA.

BOTH SPOUSES WORKING FOR THE CITY: When both spouses work for the City the total leave in any twelve (12) month period for both spouses will be limited to twelve (12) weeks if the leave is taken for the birth or adoption of a child or to care for a sick parent.

EMPLOYEE NOTICE REQUIREMENT: Employees are required in the case of foreseeable events (expected birth or placement of a child or planned medical treatment) to provide thirty (30) days’ notice to the City Manager or his or her nominee. However, if the need for a leave was not foreseeable and must begin in less than thirty (30) days, the notice shall be provided as soon as practicable. “As soon as practicable” means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. The ordinarily would mean at least verbal notification to the City within one (1) or two (2) business days of when the need for leave becomes known to the employee.

CERTIFICATIONS AND REPORTING: A certification issued by a health care provider is required to support an employee’s request for leave due to a serious health condition. Certification of Health Care Provider forms are available from the City Manager or his or her nominee.

The City may require the employee to obtain the opinion of a second health care provider designated and paid for by the City. In the event of a conflict between the first and second opinions, the City may, again at its own expense, obtain a third opinion from a health care provider approved jointly by the City and the Employee. This third opinion will be final and binding.

Employees who take leave for their own serious health condition or to care for a covered family member will be required to report to the City on a regular basis. A reporting schedule will be worked out with the City Manager or his or her nominee.

Employees are expected to provide the City with notice as soon as possible (within two (2) business days if practicable) if the dates of leave change or are extended.

Failure to comply with these requirements may result in a delay in the start of FMLA leave.

The City may also require that an employee present a certification of fitness to return to work when the absence was caused by the employee's serious health condition. The City may delay restoring the employee to employment if such certificate relating to the health condition which caused the employee's absence is not provided.

KEY EMPLOYEES: The FMLA provides a significant exemption for "key employees." The City is not required to offer key employees reinstatements to a similar position following the end of their leave. Key employees are those salaried employees who are among the highest paid ten percent (10%) of the employees paid by the City within seventy-five (75) miles of the facility at which the employee is employed and must be the highest paid ten percent (10%) of all salaried and non salaried, eligible and ineligible employees. Year-to-date earnings as of the date leave is requested are used to determine who are the highest paid.

An eligible key employee may be denied reinstatement of employment after leave has been taken if:

- (1) Such denial is necessary to avoid substantial and grievous economic injury to the operations of the City,
- (2) The City notified the key employee of its intent to deny restoration on such basis when the City determined that such injury would occur, and
- (3) If the leave has commenced, the employee elects not to return to employment after receiving such notice.

The employee will be notified by the City of his status as a key employee upon requesting leave if a chance exists that the City may deny reinstatement after the leave.

An employee may also be regarded as a key employee if the employee is the most highly compensated employee at a facility even if the employee is not among the highest paid ten percent (10%) of the employees in the City. If the employee is among the highest paid ten percent (10%) of employees at a remote facility, the employee could be denied reinstatement of employment and benefits even if the employee's salary fell within the middle range of overall employee salaried.

INTERMITTENT OR REDUCED SCHEDULED LEAVE: Under certain circumstances, when leave is taken for a serious health condition, it may be taken intermittently (in small blocks of time such as days or hours) or on a reduced work schedule if medically necessary. When such leave is unpaid, the City will make salary deductions based on the amount of time actually worked. Employees who are on an intermittent or reduced schedule leave may be temporarily transferred to an available alternative position to better accommodate the leave requirements.

Employees seeking intermittent or reduced schedule leave based on planned medical treatment will be required to produce a medical certification outlining the dates on which treatment is expected and the duration of the treatment.

PAID LEAVE: All employees taking FMLA leave will first be required to use all accrued and unused paid sick leave and vacation time. Unpaid leave will then commence for the period remaining.

BENEFITS DURING FMLA LEAVE: Employees on FMLA leave are entitled to have health benefits maintained while on leave as if they had continued working. If the health plan or benefits are changed by the City while the employee is on FMLA leave, the employee is entitled to the changed benefits to the same extent as if he or she were not on leave. Employees will be provided with any notices of changes in benefits and accorded any options to change coverage that would be provided if the individual were not on leave.

Except as required by COBRA, the City's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when:

- (1) The employment relationship would have terminated if the employee had not taken FMLA leave;
- (2) An employee informs the City of his or her intent not to return from leave (including before starting the leave if the City is so informed before the leave starts); or
- (3) The employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the twelve (12) month period.

If a "key employee" does not return from leave when notified by the City that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the City that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied. The key employee may then have rights under COBRA.

If employees were required to pay a portion of the health coverage cost, this requirement will continue during FMLA leave. The City will provide the employee with advance written notice of the terms and conditions under which these payments must be made.

Usually when the employee on leave does not return to work and the reason is not due to serious health reasons recognized under FMLA and is not due to circumstances beyond the employee's control, the City is entitled to recover from the employee any City paid costs with respect to the entire leave period. In addition, the City may elect to maintain other benefits for the employee, such as life or disability insurance, for which the employee would normally pay the premiums and the City will also be entitled to recover the cost of these premiums, based on the same criteria as recovery of the employee's share (paid by the City) of medical premiums.

While the taking of FMLA leave does not result in the loss of any employment benefits accrued prior to the date on which the leave commences, the FMLA does not require that an employee be allowed to accrue any additional benefits while on family or medical leave. These benefits include pensions, sick leave, disability benefits, annual leave, group life insurance, and paid vacation time.

RETURN TO WORK AND REINSTATEMENT: Employees generally have rights to return to the same position or an equivalent position with equivalent pay, benefits, and working conditions at the end of the FMLA leave.

It is the City's desire to have employees return to work as soon as possible within their medical restrictions. The City may have available some temporary light duty assignments to enable employees to return to full duty. Employees interested in performing temporary light duty assignments when medically able to do so should contact the Administration Office. An employee's refusal to accept light duty does not affect FMLA leave rights.

Employees who return to work but who still may have a medical problem will be reasonably accommodated to enable them to do their original job. Such accommodations must be practicable, medically necessary, and not an undue hardship upon the City. Employees who cannot be accommodated to perform their original position if it is available, will be placed in a vacant position for which they are qualified if such position is available. Such reassignments may be at the current rate of pay for the employee or at a lower rate of pay if an equivalent position for which the employee is qualified is not available. Employees should meet with the Administration Office to discuss possible accommodations. An employee's refusal to accept an accommodation does not affect the employee's FMLA leave entitlement.

Employees on FMLA leave may still be eligible for short-term or long-term disability insurance or worker's compensation benefits. An employee's decision regarding FMLA leave can affect these benefits.

ANTI-RETALIATION: No employee shall be retaliated against for exercising his or her FMLA rights. Any employee who feels he or she has been in any way discriminated or retaliated against should report that to the Commission and/or City Manager for investigation and appropriate action.



Board:	City Commission
Agenda Date:	June 22, 2026
Department:	General Fund
Presenter:	Vicki Schroeder

Staff Report

Agenda Item Title:

Extend the Summer 2026 Property Tax Due Date

Background:

Currently, the City's Charter states the summer property taxes are due August 15th. Past practice has been to extend the due date to coincide with the State, which is September 14, 2026.

Fiscal Effect:

None

Supporting Documentation:

None

Recommendation:

Motion to approve the extension of the summer property tax due date to September 14, 2026.



Board:	City Commission
Agenda	June 22, 2026
Date:	
Department:	All Funds
Presenter:	Vicki Schroeder

Staff Report

Agenda Item Title:

Summer 2026 Property Tax Leins

Background:

The City Charter and ordinances allow the city to assess delinquent utility and miscellaneous invoices to be placed as liens on the property tax rolls.

Fiscal Effect:

\$9,333.66

Supporting Documentation:

Spreadsheets detailing the amounts proposed to be placed as liens on property tax bills.

Recommendation:

Motion to place as liens on the summer 2026 tax bills accordingly.

MISC INVOICES
OFF TO TAXES
SUMMER 2026

Item 10.

PARCEL #	NAME	SERVICE ADDRESS	INVOICE #	DESCRIPTION	AMOUNT	10 % PENALTY	TOTAL
616-007-00	Gary Micheau	120 Cliffs Ave	3865	lift station call out	\$ 94.05	\$ 9.41	\$ 103.46
406-002-00	Michelle Valdez	525 N 11th St	4093	frozen water meter at rental	\$ 78.00	\$ 7.80	\$ 85.80
101-006-00	Laura LaFave	403 S 17th St	3997	water service disconnect from main	\$ 440.00	\$ 44.00	\$ 484.00
325-014-00	Joshua Coble	1722 N Lakeshore Dr	3815	lift station call out	\$ 95.70	\$ 9.57	\$ 105.27
006-001-00	Gerald Micheau	206 S 3rd St	3999	NSF fee for returned check on property tax payment	\$ 28.00	\$ 2.80	\$ 30.80
						\$ -	\$ -
						\$ -	\$ -
						\$ -	\$ -
					\$ 735.75	\$ 73.58	\$ 809.33

Account No	Parcel ID	Acct Name	Service Address	Owner Name (if different)	Electric	Fire Protection	Refuse	Sewer	Water	Compost	Utility Balance	10% Pen	Total	Notes
1102-30	020-014-00	Ardith Bartelt	410 S 5th St		\$ 41.70	\$ 4.30	\$ -	\$ -	\$ -	\$ 18.90	\$ 64.90	\$ 6.49	\$ 71.39	owner passed away; remaining balance from winter writeoff; utilites off
1226-31	275-025-00	Nicole Gundry	567 N 9th St	Brock Gundry	\$ 417.58	\$ 4.85	\$ 34.07	\$ 162.93	\$ 79.33	\$ 21.07	\$ 719.83	\$ 71.98	\$ 791.81	former domestic account
1239-35	274-024-00	Nelleke Corwin	613 N 9th St	Huntington National Bank	\$ 61.51	\$ 2.33	\$ 31.00	\$ 40.19	\$ 18.96	\$ 10.26	\$ 164.25	\$ 16.43	\$ 180.68	foreclosure
1361-30	411-012-00	Jerome C Couillard	559 N 13th St	Jason Couillard Jr	\$ 390.88	\$ 16.86	\$ 118.22	\$ 362.53	\$ 173.19	\$ 72.54	\$ 1,134.22	\$ 113.42	\$ 1,247.64	former owner
1624-31	175-023-00	Kelly Norkooli	433 29th St		\$ -	\$ -	\$ 174.72	\$ -	\$ -	\$ 100.04	\$ 274.76	\$ 27.48	\$ 302.24	refuse only customer
1946-31	325-034-00	Ian Larson	1717 Cleveland St	Larson & Schaeffer Distribution	\$ 9,654.26	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,654.26	\$ 965.43	\$ 10,619.69	enforced shut off; default payment plan; closed business
1980-31	271-005-00	Courtney Wiltzius	212 N Court St		\$ 27.72	\$ 1.47	\$ 10.31	\$ 25.26	\$ 11.92	\$ 6.45	\$ 83.13	\$ 8.31	\$ 91.44	landlord
2274-32	043-003-00	Xccelerate Fitness	805 Delta Ave	Jeff Diebolt II	\$ 949.85	\$ 7.96	\$ 55.71	\$ 321.12	\$ 156.90	\$ 33.61	\$ 1,525.15	\$ 152.52	\$ 1,677.67	enforced shut off; closed business
2307-38	044-013-00	Gladstone Deli LLC	824 Delta Ave	Scott & Cindy Chouinard	\$ 4,381.46	\$ 10.53	\$ 73.13	\$ 523.11	\$ 228.95	\$ 40.73	\$ 5,257.91	\$ 525.79	\$ 5,783.70	nsf payment; business given back to previous owner
2373-32	064-008-00	Kristen Overla	1115 Delta Ave	Jacob Taylor	\$ 57.06	\$ 2.27	\$ 15.93	\$ 51.50	\$ 24.72	\$ 9.96	\$ 161.44	\$ 16.14	\$ 177.58	former owner
3076-30	088-002-00	Christopher Becker	1407 Michigan Ave		\$ 1,071.05	\$ 6.35	\$ 44.64	\$ 155.53	\$ 74.93	\$ 27.92	\$ 1,380.42	\$ 138.04	\$ 1,518.46	enforced off
3130-30	012-027-00	Terri Sargent	402 Minnesota Ave	Maia Ogea	\$ 160.34	\$ 5.69	\$ 39.82	\$ 103.60	\$ 48.83	\$ 24.05	\$ 382.33	\$ 38.23	\$ 420.56	former owner
3491-33	563-012-90	William Christie	1021 Minneapolis Ave		\$ 392.67	\$ 7.24	\$ 50.87	\$ 608.02	\$ 303.11	\$ 31.81	\$ 1,393.72	\$ 139.37	\$ 1,533.09	enforced off; owner in nursing home; water pipe burst
3652-34	371-019-00	Mary Ring	23 Parkway Dr		\$ 1,424.44	\$ 17.05	\$ 119.47	\$ -	\$ 16.25	\$ 72.64	\$ 1,649.85	\$ 164.99	\$ 1,814.84	enforced off
3667-38	371-044-00	Tracy Harris	1 Pinewood Dr		\$ 157.14	\$ 8.25	\$ 57.32	\$ -	\$ 270.99	\$ 36.27	\$ 529.97	\$ 53.00	\$ 582.97	landlord
3863-35	014-002-00	Jason Strom	508 Superior Ave	Jeff Diebolt II	\$ 198.97	\$ 5.98	\$ 41.96	\$ 221.94	\$ 108.33	\$ 25.60	\$ 602.78	\$ 60.28	\$ 663.06	former tenant
3890-41	045-002-00	Jacob Isaacson	804 Superior Ave		\$ 747.34	\$ 15.57	\$ 109.44	\$ 1,098.33	\$ 557.82	\$ 68.43	\$ 2,596.93	\$ 259.69	\$ 2,856.62	enforced off
3928-35	076-002-00	Connie Johnson	1205 Superior Ave	Tyler Connor	\$ 24.84	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 24.84	\$ 2.48	\$ 27.32	former owner
3935-30	007-009-00	Guen Landenberger	1218 Superior Ave		\$ 295.48	\$ 12.50	\$ 87.86	\$ 215.30	\$ 101.55	\$ 54.94	\$ 767.63	\$ 76.76	\$ 844.39	enforced off; owner passed
4202-31	581-010-00	Patrick Malchow	56 Wintergreen	Stacy Smith	\$ 17.24	\$ 0.93	\$ 6.56	\$ 16.08	\$ 7.58	\$ 4.10	\$ 52.49	\$ 5.25	\$ 57.74	former owner
4385-35	089-006-50	Greg Martinson	1427 Wisconsin Ave	2 Lane Properties LLC	\$ 48.33	\$ 1.20	\$ 8.44	\$ 45.59	\$ 22.35	\$ 5.27	\$ 131.18	\$ 13.12	\$ 144.30	landlord
											\$ -	\$ -	\$ -	
											\$ -	\$ -	\$ -	
					\$ 20,519.86	\$ 131.33	\$ 1,079.47	\$ 3,951.03	\$2,205.71	\$ 664.59	\$ 28,551.99	\$2,855.20	\$ 31,407.19	

Business(current or previous owner)	\$	16,437.32	57.57%
Landlord	\$	744.28	2.61%
Back to Bank	\$	164.25	0.58%
Enforced shutoff	\$	7,788.55	27.48%
Vacant	\$	64.90	0.23%

Comparisions (totals w/o 10% penalty)	
Winter 2025	\$ 7,907.01
Summer 2025	\$ 9,028.35
Winter 2024	\$ 1,093.44
Summer 2024	\$ 8,219.47

Account No	Parcel ID	Acct Name	Service Address	Owner Name (if different)	Electric	Fire Protection	Refuse	Sewer	Water	Compost	Utility Balance	10% Pen	Total	Notes
Prev Owner/Tenant		\$ 3,142.83	11.01%								Winter 2023		\$ 7,119.87	
Subtotal		\$ 28,342.13									Summer 2023		\$ 7,987.45	
All Others		\$ 209.86	0.74%								Winter 2022		\$ 3,096.47	
Total		\$ 28,551.99									Summer 2022		\$ 28,340.93	



Board: City Commission

Agenda Date: June 22, 2026

Presenter: Patricia West

Item 11.

Staff Report

Agenda Item Title:

Social District Management & Maintenance Plan Amendment

Background:

The Gladstone Downtown Development Authority (DDA) has proposed amendments to the Gladstone Social District Management & Maintenance Plan. The proposed amendments include:

1. Extending Social District hours of operation to Sunday through Saturday, from 12:00 PM to 10:00 PM, year-round; and
2. Expanding the designated Event Commons Areas to include the three city-owned parking lots located along Delta Avenue within the Social District boundary.

The proposed adjustment to the hours of operation was prompted by feedback from participating establishments, which reported that patrons frequently inquire about the Social District while waiting for the Gladstone Farmers Market to open on Mondays. Expanding the operating hours would provide greater consistency throughout the week and allow participating businesses to better accommodate customer demand.

The proposed expansion of Event Commons Areas arose from discussions regarding the potential return of the Rockin' the Bay event to downtown Gladstone. Event organizers have expressed interest in partnering with Wally's Bar and utilizing the Social District as part of the event experience. Including the three city-owned parking lots as designated Event Commons Areas would provide additional flexibility for future special events while maintaining City oversight, as any use of these areas would continue to require a Special Event Permit and City Commission approval prior to any parking lot closure.

If approved by the City Commission, the amended Management & Maintenance Plan will be submitted to the Michigan Liquor Control Commission (MLCC) for review and approval.

Fiscal Effect:

N/A

Supporting Documentation:

Proposed Resolution 2026-04

[Draft] Social District Management & Maintenance Plan

Recommendation:

Approve Resolution 2026-04 amending the Gladstone Social District Management & Maintenance Plan and authorize submission of the amended plan to the Michigan Liquor Control Commission for review and approval.



Resolution 2026-04

A RESOLUTION TO AMEND THE GLADSTONE SOCIAL DISTRICT MANAGEMENT AND MAINTENANCE PLAN

WHEREAS, the Gladstone City Commission adopted Resolution 2025-03 on May 12, 2025, establishing the Gladstone Social District pursuant to MCL 436.1551; and

WHEREAS, the Gladstone Social District is managed by the Gladstone Downtown Development Authority (DDA) in accordance with an approved Management and Maintenance Plan; and

WHEREAS, the Gladstone Downtown Development Authority has reviewed the operation of the Social District and recommends amendments to improve usability, support downtown businesses, and enhance opportunities for community events; and

WHEREAS, the proposed amendments include:

1. Revising the Social District hours of operation to allow participation Sunday through Saturday from 12:00 PM to 10:00 PM; and
2. Expanding the designated Event Commons Areas to include three city-owned downtown parking lots as identified in the amended Gladstone Social District Management and Maintenance Plan; and

WHEREAS, the amended Management and Maintenance Plan has been prepared by the Gladstone Downtown Development Authority and submitted for review and approval by the Gladstone City Commission; and

WHEREAS, any amendments approved by the City Commission must be submitted to the Michigan Liquor Control Commission (MLCC) for review and approval before becoming effective.

NOW, THEREFORE, BE IT RESOLVED, that the Gladstone City Commission hereby approves the amended Gladstone Social District Management and Maintenance Plan, attached hereto as Exhibit A, which:

- A. Establishes Social District operating hours of Sunday through Saturday, 12:00 PM to 10:00 PM; and
- B. Designates three city-owned downtown parking lots as additional Event Commons Areas within the Gladstone Social District.

BE IT FURTHER RESOLVED, that City staff and the Gladstone Downtown Development Authority are authorized to submit the amended Management and Maintenance Plan and any supporting documentation to the Michigan Liquor Control Commission for review and approval.

BE IT FURTHER RESOLVED, that all other provisions of Resolution 2025-03 establishing the Gladstone Social District shall remain in full force and effect unless specifically amended herein.

This resolution shall take effect immediately upon adoption.

Duly adopted by the Gladstone City Commission on June 22, 2026.

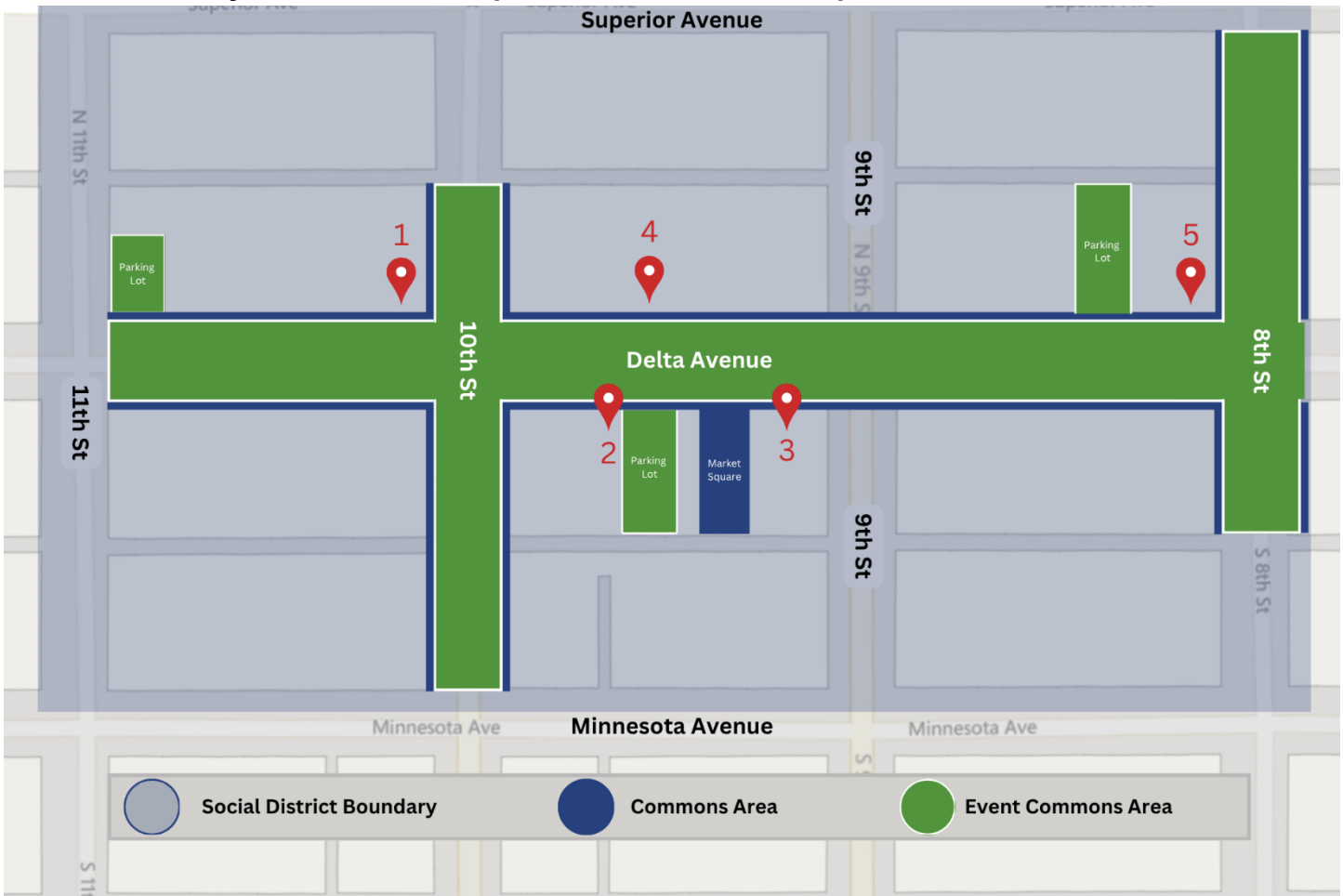
Joe Thompson, Mayor

Certified to be a true copy on June 22, 2026.

Kimberly Berry, City Clerk

Exhibit A

City of Gladstone Proposed Social District Map & Qualified Licenses



The City of Gladstone's proposed social district boundary would allow for five existing licensed establishments to participate in the district. It is recognized that this list of eligible establishments may change or grow over time.

(1) Saunders Point Brewing LCC

DBA Name: Saunders Point Brewing
1000 Delta Ave
Gladstone, MI 49837

(4) Dew Enterprises LCC.

DBA Name: Dew Drop Family Restaurant
916 Delta Ave
Gladstone, MI 49837

(2) White Water Tavern, Inc.

DBA Name: Wally's Bar
917 Delta Ave
Gladstone, MI 49837

(5) August Mattson Post, No 71, The American Legion

DBA Name: American Legion
802 Delta Ave
Gladstone, MI 49837

(3) Jazzz, Inc.

DBA Name: MIDD Bar & Lounge
903 Delta Ave
Gladstone, MI 49837

GLADSTONE SOCIAL DISTRICT

Management & Maintenance Plan

City of Gladstone's Downtown Development Authority



This plan outlines the management and maintenance of the proposed Downtown Gladstone Social District for review by the Gladstone City Commission. Upon local approval, it will be submitted to the Michigan Liquor Control Commission (MLCC) for state approval.

The Gladstone Downtown Development Authority (DDA) seeks to establish this district to promote economic growth and expand opportunities for businesses and recreation. The DDA would serve as the district's managing authority, with any future updates to this plan requiring approval by the Gladstone City Commission.

What is a Social District?

Authorized by Michigan law in 2020, social districts allow communities to designate areas

where beverages from licensed establishments can be enjoyed outdoors in specially marked containers. Introduced during the COVID-19 pandemic to support local businesses, these districts have since grown in popularity, enhancing downtown atmospheres and boosting tourism.

All State of Michigan and City of Gladstone laws regarding public intoxication, impaired driving, and open containers apply within and beyond district boundaries.

Boundaries within the District

Social District Boundary

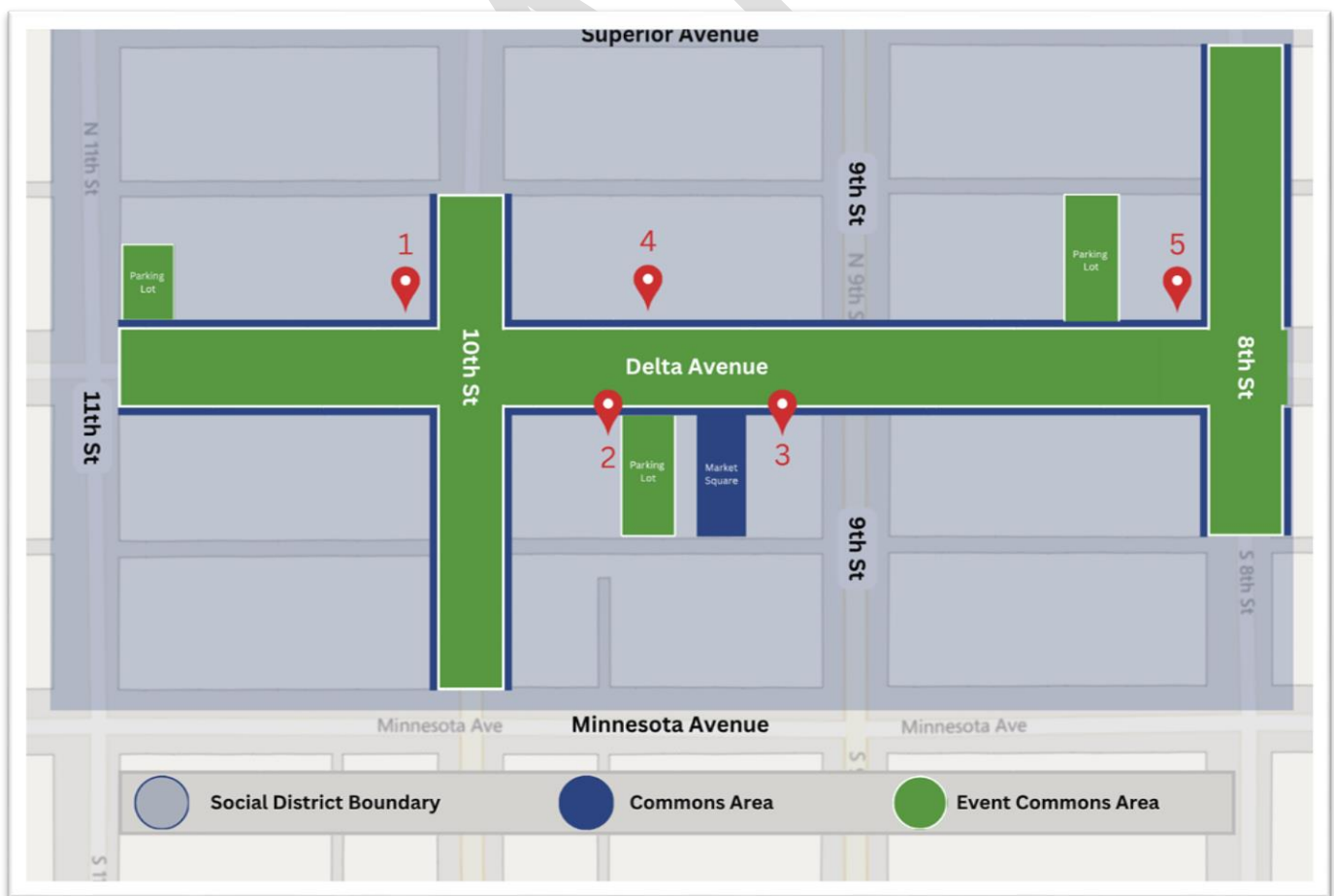
The social district designates areas where establishments with a Michigan Liquor Control Commission (MLCC) license and a Social District permit may sell beverages for outdoor consumption.

Commons Areas

Commons Areas are clearly marked spaces within the district where consumption may take place. These areas do not include the licensed premises themselves. Drinks must be consumed either in the establishment where purchased or within the designated Commons Areas, which include the sidewalks highlighted in blue on the map below and the Farmers Market Square at 907 Delta Avenue.

Event Commons Areas

For special events, the City Commission may approve an expanded Event Commons Area, allowing social district beverages to be consumed within additional designated streets, including Delta Avenue and portions of 8th and 10th Streets, as shown on the map below.



Hours of Operation

The social district will operate year-round, with hours of operation detailed in the table below. After 10:00 PM, beverages may only be sold for consumption within the license holder's service area and not in the district commons areas, per their liquor license.

Sunday	12:00 PM – 10:00 PM
Monday	12 4:00 PM – 10:00 PM
Tuesday	12 4:00 PM – 10:00 PM
Wednesday	12 4:00 PM – 10:00 PM
Thursday	12 4:00 PM – 10:00 PM
Friday	12 4:00 PM – 10:00 PM
Saturday	12:00 PM – 10:00 PM

Eligible Establishments

The City of Gladstone's proposed social district boundary would allow for five existing licensed establishments to participate in the district. It is recognized that this list of eligible establishments may change or grow over time.

(1) <u>Saunders Point Brewing</u>	(2) <u>Dew Drop Family Restaurant Wally's Bar</u>	(3) <u>American Legion MIDD Bar & Lounq</u>
1000 Delta Ave Gladstone, MI 49837	916 <u>917</u> Delta Ave Gladstone, MI 49837	802 <u>903</u> Delta Ave Gladstone, MI 49837
(4) <u>Wally's Bar Dew Drop Family Restaurant</u>	(5) <u>MIDD Bar & Lounge American Legion</u>	
916 <u>917</u> Delta Ave Gladstone, MI 49837	903 <u>802</u> Delta Ave Gladstone, MI 49837	

After the City of Gladstone's Social District application is approved by the MLCC, the Gladstone DDA will establish and oversee a municipal application and approval form for eligible establishments. This form will confirm the city's support and must be included in each establishment's separate MLCC application to participate in the district.

Enforcement & Security

Gladstone Public Safety will enforce patron compliance within the social district. Clear signage will define district boundaries, and the municipal website will provide an overview and educational campaign on responsible use. Clear boundary markings and a strong educational campaign will be vital to the success of the district.

Public Safety will be notified whenever a special use permit is submitted for City Commission approval for an event within the district. If additional police presence is requested or required, Public Safety will coordinate with the event's overseeing department head or coordinator. The event coordinator will be responsible for any associated Public Safety staffing costs.

All State of Michigan and City of Gladstone laws regarding public intoxication, impaired driving, and open containers apply within and beyond the district. Public Safety will enforce these regulations using local ordinances and state liquor laws, and any violation of these laws should be reported to law enforcement.

Funding & Maintenance

The Gladstone DDA will cover both the initial and ongoing costs for logo creation, signage, staff operations, marketing, and maintenance responsibilities outlined in the Parks & Recreation contract.

Sponsorship Opportunities

Maintaining a clean downtown will require additional resources. To support waste management efforts, the DDA will seek sponsorships from downtown businesses to fund additional trash receptacles and assist in sustaining the existing Parks & Recreation contract. These sponsorships will not generate revenue but will help offset district maintenance and operational costs.

Serving Container Oversight

Licensed participating establishments will oversee the purchase of the social district containers but are required to adhere to the Michigan Liquor Control Code Act 58 of 1998, Section 436.1551 requirements for social district containers. It is the establishment's responsibility to ensure that their serving containers are compliant.

These requirements include:

- ☑ The container prominently displays the social district permittee's trade name or logo or some other mark that is unique to the social district permittee under the social district permittee's on-premises license.
- ☑ The container prominently displays a logo or some other mark that is unique to the commons area.
- ☑ The container is not glass.
- ☑ The container has a liquid capacity that does not exceed 16 ounces.

Sanitation & Trash Collection

State law requires that containers used for social district beverages be single-use. With increased foot traffic, a natural rise in waste is expected downtown.

The Gladstone DDA contracts with Parks & Recreation staff to manage routine trash collection within the district. This includes daily visual inspections of receptacles, which are emptied as needed.

Marketing of the District

The DDA will be responsible for marketing the district, including signage designating the boundaries of the social district, investing in our online presence by partnering with Orange Cat Media on an educational campaign to outline the rules and operations of the district, and information sessions for interested businesses.

Closing, Pausing, or Revoking the District

Certain circumstances or events may arise within the district where public alcohol consumption is not appropriate. In such cases, the Gladstone City Commission and/or the Gladstone DDA may temporarily close the social district. If closure is necessary, the DDA will provide at least seven (7) days' notice for all qualified licensees. During the closure, licensees must ensure that alcohol is not consumed outside their service area.

The privilege of having a social district comes with the responsibility of maintaining its benefits and integrity. A meeting shall be held annually between DDA administrative staff and the participating establishments to discuss the impact (either positive or negative) of the district and identify needs to ensure the success of its future. If the community or governing body determines that the district is being misused, the municipality may revoke its designation due to health, safety, or public wellbeing concerns, following a public hearing.



Board: City Commission

Agenda Date: June 22, 2026

Presenter: Patricia West

Item 12.

Staff Report

Agenda Item Title:

Special Event Permit | Rocking the Bay

Background:

Wally's Bar has submitted a request to host "Rocking the Bay," a public outdoor fundraising event benefiting Bay College Athletics. The event is proposed for Saturday, August 29, 2026, and would be held in the City-owned parking lot located between Wally's Bar and Wild Bill's Tobacco.

The event is scheduled to take place from 3:00 p.m. to 10:00 p.m. To accommodate event setup, the applicant is requesting closure of the parking lot beginning at 8:00 a.m. on the day of the event. The event will be open to the public and is anticipated to include live entertainment and related fundraising activities.

The applicant's only request of the City is the temporary use of a barricade to facilitate closure of the parking lot during setup, event operations, and teardown.

Should the proposed amendment to the social district plan be approved, the applicant intends to utilize Gladstone's Social District, allowing participating licensed establishments to serve beverages in accordance with all applicable Social District regulations and requirements.

Staff has reviewed the request and notes that the event would occur on City-owned property and require temporary closure of the parking lot for the duration of the event and associated setup activities.

Fiscal Effect:

N/A

Supporting Documentation:

Special Event Permit Application

Recommendation:

Motion to approve the "Rocking the Bay" event request submitted by Wally's Bar for August 29, 2026, including closure of the City-owned parking lot between Wally's Bar and Wild Bill's Tobacco beginning at 8:00 a.m. and use of a City barricade, subject to all applicable City requirements.

Gladstone

MICHIGAN

Special Event Permit Application

Event Sponsor Information

Name of Event Sponsor:

Rocking for Bay

Business Name (if applicable):

Wallys Bar / Bay College Athletics

Non-Profit ID #:

93-2707929

Address:

Street: 917 Delta Ave

City/Town: Gladstone State: MI ZIP: 49837

Person in Charge of Activity

First & Last Name:

Tonya Adams / Matt Johnson

Phone Number:

906-428-4005

Email Address:

[REDACTED]@gmail.com

Event Information

Event Name:

Rocking for Bay

Event Date:

8-29-26

Event Time:

3-10

Event Location:

City Parking 915 Delta Ave.

Will this event take place in the DDA District?

☒ Yes

☐ No

Is this event open to the public?

☒ Yes

☐ No

Will the event require street closure?

☐ Yes

☒ No

Will the street closure utilize the Social District?

☒ Yes

No

(parking lot)

Please provide a description of your needs for a street closure (which streets, where should barricade placement go, etc.)

Baracade Parking lot

How many participants are you anticipating?

250

Event Set-Up & Clean-Up

Set-Up Date:

8-28-26

Set-Up Time:

8 AM

Clean-Up Date:

8-28-26

Clean-Up Time:

10-midnight

Do you have any special requests for this event?

Enclosed Documentation

- ☐ Promotion flyer or advertisement
- ☐ Proof of General Liability Insurance with a minimum limit of \$1,000,000.00

Liability Waiver

By signing below, the individual and/or event sponsor named above shall indemnify and hold harmless the City of Gladstone, its officers, employees, and agents from and against any and all claims, demands, liabilities, costs, and expenses of whatever nature, including court costs and counsel fees, arising out of injury to or death of any person or persons, or loss of or physical damage to any property resulting from willful misconduct, acts, or negligence by the applicant, its sub-consultants, agents, employees, volunteers, licensees, or guests in connection with this Special Event Permit.

It is understood the City of Gladstone issues the permit to review and approve all plans for events which will affect public facilities or the public right-of-way.

Waiver of Subrogation

The lessor waives all rights of recovery against the lessee, lessee's employees, agents, and invitees for any loss or damage to property of the lessor located at the premises covered by this Special Event Permit, including property insured under valid and collectible insurance policies, to the extent of any recovery collectible under such insurance.

Signature of Event Sponsor:



Date:

6/19/26



Board:	City Commission
Agenda Date:	06-22-2026
Department:	City Commission
Presenter:	Kim Berry, City Clerk

Staff Report

Agenda Item Title:

Freedom of Information Act (FOIA) Appeal of Excess Fees – Michael O'Connor

Background:

City of Gladstone FOIA Policies and Guidelines Section 9 Appeal of an Excessive FOIA Processing Fee (page 9) also located on City website

The Requestor must appeal to the City Commission and identify how the required fee exceeds the amount permitted by state law and/or the city's FOIA Policy. (MCL

Within 10 business days after receiving the appeal, the City of Gladstone Commission will respond in writing by:

- Waiving the fee
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee
- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the City of Gladstone Commission will respond to the written appeal. The City of Gladstone Commission shall not issue more than 1 notice of extension for a particular written appeal.

Fiscal Effect:

\$114.47 Total FOIA Fee

Refund \$7.08 for not rounding down the partial time increment

Supporting Documentation:

- Appeal dated 06-02-2026

- FOIA Request 2026-06 City Response
- City of Gladstone FOIA Policies and Guidelines Re: Section 4 Fee Deposits, Section 5 Calculation of Fees, Section 6 Waiver of Fees, Section 7 Discounted Fees and Section 9 Appeal of Excessive Fee
- State of Michigan FOIA law

Recommendation:

The first part of the appeal presented to you does not identify how the required fee exceeds the amount permitted by state law and/or the city's FOIA policy as required by MCL15.240a Section 10a(1)(a). It only states: "the hourly cost of \$47.27 appears to be excessive for the lowest paid employee capable of completing the task." He does not state who he believes is the lowest paid capable employee.

The city clerk is authorized to retrieve emails from city accounts, or the account user could retrieve the emails in this case that would have been the Electric Superintendent who makes more than the City Clerk wage. If the City Clerk or the account user cannot retrieve the emails the city, then must have the IT Tech who charges \$85.00 per hour as there is no one else capable of retrieving the emails.

Regarding the math error in rounding down, the City will refund \$7.08 according to the following:

114 minutes/15 minutes = 7.6 x \$11.81 = \$89.75

114 minutes/15 minutes = 7.0 x \$11.81 = \$82.67

Motion to uphold the Labor, Cost-Search fee hourly rate of \$47.27 as the lowest employee capable of completing the task in the calculation of $\$47.27/4=\11.81 per increment was correct, the City will refund \$7.08 rounding from 7.6 increments to 7.0 increments pursuant to MCL15.234 Sec.4(1)(a). The refund will be in the form of credit as the appellant has four current FOIA requests (identified as 2026-11; 2026-13; 2026-14, and 2026-15) pending with the City; if the credit is not utilized a refund check will be mailed.

Michael O'Connor
526 Minnesota Avenue
Gladstone, Michigan 49837
(906) 241-9808

Rob Spreitzer City Manager
City of Gladstone
1100 Delta Ave
Gladstone, Mi 49837

"APPEAL"

June 2nd, 2026

Re: Appeal Excessive FOIA Processing Fee Request N. 2026-06 Rec'd on 5/29/2026

Dear Mr. Spreitzer,

Please submit my request for City of Gladstone Commission to review section 1 of the City of Gladstone FOIA Fee Itemization Form "Labor Costs - Search, Location, and Examination of Records" as the hourly cost of \$47.27 appears to be excessive for the lowest paid employee capable of completing the task. Plus a math error in rounding down the number of 15 minute increments.

I look forward to meeting with the Commission, as needed, to bring this matter to a successful conclusion.

Sincerely,



Michael O'Connor

CITY OF GLADSTONE
FOIA Fee Itemization Form

Request No. 2026-06

Item 13.

Date: 05-26-2026

Name: Michael O'Connor

<u>Component</u>	<u>Cost Calculations</u>	<u>Total</u>
1. Labor Costs – Search, Location, and Examination of Records*	Enter the hourly wage of lowest paid employee capable of performing the search, location and examination $\\$47.27$ per hour 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 $\\$ \text{_____} \times 1. \text{_____} = \\$ \text{_____}$ If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) $\\$ \text{_____} + \text{_____} = \\$ \text{_____}$ Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment $\\$47.27 / 4 = \\11.81 Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate $114 \text{ minutes} / 15 \text{ minutes} = 7.6 \times \\$11.81 = \\$89.75$	\$89.75
2. Employee Labor Costs – Redaction*	If performed by the public body's employee: Enter the hourly wage of lowest paid employee capable of performing the redaction $\\$47.27$ per hour 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 $\\$ \text{_____} \times 1. \text{_____} = \\$ \text{_____}$	

	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 \$47.27 / 4 = \$11.81 _____ Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate 30 minutes/15 minutes = 2 x \$11.81 = \$ 23.62 _____	\$23.62
3. 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 \$ _____ = \$ _____	\$ 0.0
4. Non-Paper Physical Media	Actual and most reasonably economical cost of: Flash Drives \$ _____ x number used _____ = \$ _____ Computer Discs \$ _____ x number used _____ = \$ _____ Other Media \$ _____ number used _____ = \$ _____	\$0.0
5. Paper Copies	Actual total incremental cost of duplication (not including labor) up to a <u>maximum of 10 cents per page</u>: Letter paper (8 1/2" x 11") number of sheets 55 x \$0.02 = \$1.10 Legal paper (8 1/2" 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.)	\$1.10
6. Labor Cost – Duplication Copying, and transferring records to non-paper physical media	Enter the hourly wage of lowest paid employee capable of performing the duplication, copying, or transferring digital records to non-paper physical media \$ _____ per hour 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 _____ 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 \$ _____ = \$ _____	\$0.0
7. Mailing	Actual cost of mailing records in a reasonable and economical manner: Cost of mailing: \$ _____ Cost of least expensive form of postal delivery confirmation: \$ _____	\$0.0

	Cost of expedited shipping or insurance only if specifically stipulated by the requestor: \$ _____	
	Subtotal	\$114.47
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%)	-\$0.00
Deposit: _____	Subtract any good-faith deposit received: \$ _____	-\$ _____
Invoice: <u>XX</u>	Request will be processed upon payment of required deposit: balance must be paid before copies may be picked up, delivered or mailed Total Due	\$ 114.47
Estimate _____	Estimated time frame to provide records: <u>5</u> business days	
	The estimated timeframe is nonbinding upon the City; the City is providing the estimate in good faith.	
	Request will be processed upon payment of required deposit: balance must be paid before copies may be picked up, delivered or mailed Date Paid	

*Note: Labor costs for search, location, examination and redaction (categories 1 and 2 on the itemization form) may not be charged unless the failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

The public summary of the City's FOIA Procedures and Guidelines is available free of charge from:
 Website: www.gladstonemi.gov Email: kberry@gladstonemi.gov

Kim Berry, City Clerk
 906-428-2311
 1100 Delta Avenue, Gladstone, MI. 49837

Request No. 2026-06 _____
 Date: 05-26-2026 _____
 Name: Michael O'Connor_



"Year Round Playground"

CITY OF GLADSTONE, MICHIGAN

CITY HALL, 1100 DELTA AVENUE

GLADSTONE, MI 49837

PHONE: 906-428-2311

FAX: 906-428-3122

www.gladstonemi.gov

May 26, 2026

VIA FIRST CLASS MAIL

Mr. Michael O'Connor
526 Minnesota Avenue
Gladstone, MI. 49837

Re: FOIA Request #2026-06

Mr. O'Connor

The City of Gladstone (the "City") is writing in response to your Freedom of Information Act ("FOIA") request dated May 4, 2026, your request identified as:

Requested Information:

The Electrical Department has determined there is a need for the replacement of the two power transformers at a cost of over one million dollars. Please provide all documentation concerning the need for replacement (testing conducted on the 2 existing units) and all other documentation between the City and WPPI, PSE or any other 3rd party on the matter.

Your request is granted. Upon receipt of payment of \$114.47 a copy of the documents will be provided to you within five (5) business days.

The City's FOIA Procedures and Guidelines and Public Written Summary are maintained on its website and may be accessed at:

<https://www.gladstonemi.gov/media/2776>

A copy of this request will be kept on file for no less than one (1) year. Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Kimberly Berry
Gladstone City Clerk



A WPPI Energy community

The City of Gladstone is an equal opportunity employer and provider.

City of Gladstone

FOIA Procedures and Guidelines

Preamble: Statement of Principles

It is the policy of City of Gladstone that all persons, except those incarcerated, 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 City of Gladstone'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 City of Gladstone acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The City of Gladstone 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.

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

The City of Gladstone Commission has established the following written procedures and guidelines to implement the FOIA and will create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary will be written in a manner so as to be easily understood by the general public.

Section 1: General Policies

The City of Gladstone Commission, acting pursuant to the authority at MCL 15.236, designates the City Clerk as the FOIA Coordinator. He or she is authorized to designate other City of Gladstone staff to act on his or her behalf to accept and process written requests for the City of Gladstone'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 City of Gladstone 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 City of Gladstone spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with City of Gladstone Information Technology staff to develop administrative rules for handling spam and junk-mail so as to protect City of Gladstone systems from computer attacks which 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 City of Gladstone 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 City of Gladstone 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 City of Gladstone on file for a period of at least one year.

The City of Gladstone will make this Procedures and Guidelines document and the Written Public Summary publicly available without charge. If it does not, the City of Gladstone cannot require deposits or charge fees otherwise permitted under the FOIA until it is in compliance.

A copy of this Procedures and Guidelines document and the City of Gladstone's Written Public Summary must be publicly available by providing free copies both in the City of Gladstone's response to a written request and upon request by visitors at the City of Gladstone's office.

This Procedures and Guidelines document and the City of Gladstone's Written Public Summary will be maintained on the City of Gladstone's website at: www.gladstonemi.org, so a link to those documents will be provided in lieu of providing paper copies of those documents.

Section 2: Requesting a 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.

Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City of Gladstone may be submitted on the City of Gladstone's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.

Verbal requests for records may be documented by the City of Gladstone on the City of Gladstone's FOIA Request Form.

If a person makes a verbal, non-written request for information believed to be available on the City of Gladstone's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

A request must sufficiently describe a public record so as to enable City of Gladstone personnel to identify and find the requested public record.

Written requests for public records may be submitted in person or by mail to any City of Gladstone 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, emailed or other otherwise provided to him or her in digital form in lieu of paper copies. The City of Gladstone 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 City of Gladstone on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

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, the City of Gladstone will issue a response within 5 business days of receipt of a FOIA request. 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 City of Gladstone will respond to a 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 City of Gladstone needs an additional 10 business days to respond for a total of no more than 15 business days. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the City of Gladstone's website.

When a request is granted:

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 and the Written Public Summary will be provided to the requestor free of charge with the response to a written request for public records, provided however, that because these Procedures and Guidelines, and the Written Public Summary are maintained on the City of Gladstone's website at: www.gladstonemi.org, a link to the Procedures and Guidelines and the Written Public Summary will be provided in lieu of providing paper copies of those documents.

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 the cost of processing a FOIA request is expected to exceed \$50 based on a good-faith calculation, or if the requestor has not paid in full for a previously granted request, the City of Gladstone will require a good-faith deposit pursuant to Section 4 of this policy 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 City of Gladstone to process the request and also provide a best efforts estimate of a time frame it will take the City of Gladstone to provide the records to the requestor. The best efforts estimate shall be nonbinding on the City of Gladstone, 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.

When a request is denied or denied in part:

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 City of Gladstone; 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 City of Gladstone Manager or seek judicial review in the Delta County Circuit Court;
- 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 or authorized representative.

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.

Inspection of a Public Record

Upon receiving a verbal request to inspect City records, the City shall furnish the requesting person with a reasonable opportunity and reasonable facilities for inspection and examination of its public records.

A person shall be allowed to inspect public records during usual business hours, not less than four hours per day. The public does not have unlimited access to City offices or facilities, and a person may be required to inspect records at a specified counter or table, and in view of City personnel.

City officials, appointees, staff or consultants/contractors assisting with inspection of public records shall inform any person inspecting records that only pencils, and no pens or ink, may be used to take notes.

In coordination with the official responsible for the records, the FOIA coordinator shall determine on a case-by-case basis when the City will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

The City Clerk is responsible for identifying if records or information requested by the public is stored in digital files or e-mail, even if the public does not specifically request a digital file or e-mail.

A person cannot remove books, records or files from the place the City has provided for the inspection.

No documents shall be removed from the office of the custodian of those documents without permission of that custodian, except by court order, subpoena or for audit purposes. The official shall be given a receipt listing the records being removed. Documents may be removed from the office of the custodian of those documents with permission of that custodian to accommodate public inspection of those documents.

Copies May Be Required to Enable Public Inspection of Records

In coordination with the official responsible for the records, the FOIA coordinator will determine (*by policy, on a case-by-case basis, or both*) when the City will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

A fee will be charged for copies made to enable public inspection of records, according to the City's FOIA policy.

Requests for certified copies:

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, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not paid the City of Gladstone in full 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 City of Gladstone's possession;
- The public records were made available to the individual, subject to payment, within the time frame estimated by the City of Gladstone to provide the records;
- Ninety (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 City of Gladstone; 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 Coordinator will not require an increased estimated fee deposit if any of the following apply:

- The person making the request is able to show proof of prior payment in full to the City of Gladstone;
- The City of Gladstone is subsequently paid in full for the applicable prior written request; or
- Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to the City of Gladstone.

Section 5: Calculation of Fees

A fee may be charged for the labor cost of copying/duplication.

A fee will **not** be charged for the labor 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 City of Gladstone because of the nature of the request in the particular instance, and the City of Gladstone specifically identifies the nature of the unreasonably high costs.

Costs for the search, examination review, and deletion and separation of exempt from non-exempt information are "unreasonably high" when they are excessive and beyond the normal or usual amount for those services (Attorney General Opinion 7083 of 2001) compared to the costs of the City of Gladstone's usual FOIA requests, not compared to the City of Gladstone's operating budget. (*Bloch v. Davison Community Schools*, Michigan Court of Appeals, Unpublished, April 26, 2011)

The following factors shall be used to determine an unreasonably high cost to the City of Gladstone:

- 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 the public records are from more than one City of Gladstone department or whether various City of Gladstone offices are 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 Michigan FOIA statute permits the City of Gladstone to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- 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 City of Gladstone.
- 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 City of Gladstone.
- 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 City of Gladstone's website if you ask for the City of Gladstone to make copies.
- 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 City of Gladstone's website if you ask for the City of Gladstone to make copies.
- The cost to mail or send a public record to a requestor.

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. If the time involved is less than 15 minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid City of Gladstone 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 City of Gladstone 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 unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at the hourly rate of \$48.90 (6 times the state minimum hourly wage).

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- 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 City of Gladstone has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- The City of Gladstone will procure any non-paper media and will not accept media from the requestor in order to ensure integrity of the City of Gladstone's technology infrastructure.

The cost to provide paper copies of records will be based on the following requirements:

- 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-standard sized sheets of paper will reflect the actual cost of reproduction.
- The City of Gladstone will provide records using double-sided printing, if it is cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The City of Gladstone may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless specified by the requestor.

If the FOIA Coordinator does not respond to a written request in a timely manner, the City of Gladstone must:

- Reduce the labor costs by 5% for each day the City of Gladstone exceeds the time permitted under FOIA up to a 50% maximum reduction, if **any** of the following applies:
 - The City of Gladstone's late response was willful and intentional,
 - The written request conveyed a request for information within the first 250 words of the body of a letter facsimile, email or email attachment, or
 - 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 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 it can be considered as primarily benefitting the general public. The City of Gladstone Commission may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

Section 7: Discounted Fees

Indigence

The FOIA Coordinator will discount 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:

- Indigent and receiving specific public assistance, or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

An individual is not eligible to receive the waiver if:

- The requestor has previously received discounted copies of public records from the City of Gladstone 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.

Nonprofit organization advocating for developmentally disabled or mentally ill individuals

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from:

- A nonprofit organization formally designated by the state to carry out activities under subtitle C of the federal developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, 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 reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.
 - Is accompanied by documentation of its designation by the state, if requested by the public body.

Section 8: 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 appeal to the City of Gladstone Commission by filing an appeal of the denial with the office of City of Gladstone Manager.

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. The City of Gladstone FOIA Appeal Form (To Appeal a Denial of Records), may be used.

The City of Gladstone Commission is not considered to have received a written appeal until the first regularly scheduled City of Gladstone Commission meeting following submission of the written appeal.

Within 10 business days of receiving the appeal the City of Gladstone Commission 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; or
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the City of Gladstone Commission shall respond to the written appeal. The City of Gladstone Commission shall not issue more than 1 notice of extension for a particular written appeal.

If the City of Gladstone Commission fails to respond to a written appeal, or if the City of Gladstone Commission upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action in Circuit Court.

Whether or not a requestor submitted an appeal of a denial to the City of Gladstone Commission, he or she may file a civil action in Delta County Circuit Court within 180 days after the City of Gladstone's final determination to deny the request.

If a court that determines a public record is not exempt from disclosure, it shall order the City of Gladstone to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Failure to comply with an order of the court may be punished as contempt of court.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in such an action, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or City of Gladstone prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

If the court determines that the City of Gladstone has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the City of Gladstone to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

Section 9: Appeal of an Excessive FOIA Processing Fee

"Fee" means the total fee or any component of the total fee calculated under section 4 of the FOIA, including any deposit.

If a requestor believes that the fee charged by the City of Gladstone to process a FOIA request exceeds the amount permitted by state law or under this policy, he or she must first appeal to the City of Gladstone Commission by submitting a written appeal for a fee reduction to the office of the City of Gladstone Manager.

The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The City of Gladstone FOIA Appeal Form (To Appeal an Excess Fee) may be used.

The City of Gladstone Commission is not considered to have received a written appeal until the first regularly scheduled City of Gladstone Commission meeting following submission of the written appeal.

Within 10 business days after receiving the appeal, the City of Gladstone Commission will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the City of Gladstone Commission will respond to the written appeal. The City of Gladstone Commission shall not issue more than 1 notice of extension for a particular written appeal.

Where the City of Gladstone Commission reduces or upholds the fee, the determination must include a certification from the City of Gladstone Commission that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and Section 4 of the FOIA.

Within 45 days after receiving notice of the City of Gladstone Commission's determination of an appeal, the requesting person may commence a civil action in Delta County Circuit Court for a fee reduction.

If a civil action is commenced against the City of Gladstone for an excess fee, the City of Gladstone is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

An action shall not be filed in circuit court unless **one** of the following applies:

- The City of Gladstone does not provide for appeals of fees,
- The City of Gladstone Commission failed to respond to a written appeal as required, or
- The City of Gladstone Commission issued a determination to a written appeal.

If a court determines that the City of Gladstone required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or Section 4 of the FOIA, the court shall reduce the fee to a permissible amount. Failure to comply with an order of the court may be punished as contempt of court.

If the requesting person prevails in court by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages.

If the court determines that the City of Gladstone has arbitrarily and capriciously violated the FOIA by charging an excessive fee, the court shall order the City of Gladstone to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

Section 10: Conflict with Prior FOIA Policies and Procedures; Effective Date

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by City of Gladstone Commission or the City of Gladstone 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 City of Gladstone Commission or the City of Gladstone 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 City of Gladstone Commission or the City of Gladstone Administration, 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 City of Gladstone Commission of any change these Policies and Guidelines.

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

Section 11: Appendix of City of Gladstone FOIA Forms

- Request for Public Records Form
- Notice to Extend Response Time Form
- Notice of Denial Form
- Detailed Cost Itemization Form
- Appeal of Denial of Records Form
- Appeal of Excess Fee Form

FREEDOM OF INFORMATION ACT
Act 442 of 1976

AN ACT to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

The People of the State of Michigan enact:

15.231 Short title; public policy.

Sec. 1. (1) This act shall be known and may be cited as the "freedom of information act".

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, 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 public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 1997, Act 6, Imd. Eff. May 16, 1997.

Popular name: Act 442

Popular name: FOIA

15.232 Definitions.

Sec. 2. As used in this act:

(a) "Cybersecurity assessment" means an investigation undertaken by a person, governmental body, or other entity to identify vulnerabilities in cybersecurity plans.

(b) "Cybersecurity incident" includes, but is not limited to, a computer network intrusion or attempted intrusion; a breach of primary computer network controls; unauthorized access to programs, data, or information contained in a computer system; or actions by a third party that materially affect component performance or, because of impact to component systems, prevent normal computer system activities.

(c) "Cybersecurity plan" includes, but is not limited to, information about a person's information systems, network security, encryption, network mapping, access control, passwords, authentication practices, computer hardware or software, or response to cybersecurity incidents.

(d) "Cybersecurity vulnerability" means a deficiency within computer hardware or software, or within a computer network or information system, that could be exploited by unauthorized parties for use against an individual computer user or a computer network or information system.

(e) "Field name" means the label or identification of an element of a computer database that contains a specific item of information, and includes but is not limited to a subject heading such as a column header, data dictionary, or record layout.

(f) "FOIA coordinator" means either of the following:

(i) An individual who is a public body.

(ii) An individual designated by a public body in accordance with section 6 to accept and process requests for public records under this act.

(g) "Person" 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 this state or any other state, or in a federal correctional facility.

(h) "Public body" means any of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.

(ii) An agency, board, commission, or council in the legislative branch of the state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.

(iv) Any other body that is created by state or local authority or is primarily funded by or through state or

local authority, except that the judiciary, including the office of the county clerk and its employees when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

(i) "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software. This act separates public records into the following 2 classes:

(i) Those that are exempt from disclosure under section 13.

(ii) All public records that are not exempt from disclosure under section 13 and that are subject to disclosure under this act.

(j) "Software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result. Software does not include computer-stored information or data, or a field name if disclosure of that field name does not violate a software license.

(k) "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

(i) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.

(ii) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

(l) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, hard drives, solid state storage components, or other means of recording or retaining meaningful content.

(m) "Written request" means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2018, Act 68, Eff. June 17, 2018.

Popular name: Act 442

Popular name: FOIA

15.233 Public records; request requirements; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies.

Sec. 3. (1) Except as expressly provided in section 13, upon providing a public body's FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of the requested public record of the public body. A request from a person, other than an individual who qualifies as indigent under section 4(2)(a), must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription is valid for up to 6 months, at the request of the subscriber, and is renewable. An employee of a public body who receives a request for a public record shall promptly forward that request to the freedom of information act coordinator.

(2) A freedom of information act coordinator shall keep a copy of all written requests for public records on file for no less than 1 year.

(3) A public body shall furnish a requesting person a reasonable opportunity for inspection and examination of its public records, and shall furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours. A public body may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. A public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

(4) This act does not require a public body to make a compilation, summary, or report of information, except as required in section 11.

(5) This act does not require a public body to create a new public record, except as required in section 11,

and to the extent required by this act for the furnishing of copies, or edited copies pursuant to section 14(1), of an already existing public record.

(6) The custodian of a public record shall, upon written request, furnish a requesting person a certified copy of a public record.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2018, Act 523, Imd. Eff. Dec. 28, 2018.

Popular name: Act 442

Popular name: FOIA

15.234 Fee; limitation on total fee; labor costs; establishment of procedures and guidelines; creation of written public summary; detailed itemization; availability of information on website; notification to requestor; deposit; failure to respond in timely manner; increased estimated fee deposit; deposit as fee; failure to pay or appeal deposit; request abandoned.

Sec. 4. (1) A public body may charge a fee for a public record search, for the necessary copying of a public record for inspection, or for providing a copy of a public record if it has established, makes publicly available, and follows procedures and guidelines to implement this section as described in subsection (4). Subject to subsections (2), (3), (4), (5), and (9), the fee must be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. Except as otherwise provided in this act, if the public body estimates or charges a fee in accordance with this act, the total fee must not exceed the sum of the following components:

(a) That portion of labor costs directly associated with the necessary searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in the particular instance regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.

(b) That portion of labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information as provided in section 14. For services performed by an employee of the public body, the public body shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14, regardless of whether that person is available or who actually performs the labor. If a public body does not employ a person capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14 as determined by the public body's FOIA coordinator on a case-by-case basis, it may treat necessary contracted labor costs used for the separating and deleting of exempt information from nonexempt information in the same manner as employee labor costs when calculating charges under this subdivision if it clearly notes the name of the contracted person or firm on the detailed itemization described under subsection (4). Total labor costs calculated under this subdivision for contracted labor costs must not exceed an amount equal to 6 times the state minimum hourly wage rate determined under section 4 of the improved workforce opportunity wage act, 2018 PA 337, MCL 408.934. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. A public body shall not charge for labor directly associated with redaction under section 14 if it knows or has reason to know that it previously redacted the public record in question and the redacted version is still in the public body's possession.

(c) For public records provided to the requestor on any form of nonpaper physical media, the actual and most reasonably economical cost of the nonpaper physical media. The requestor may stipulate that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies. This subdivision does not apply if a public body lacks the technological capability necessary to provide records on the particular nonpaper physical media stipulated in the particular instance.

(d) For paper copies of public records provided to the requestor, the actual total incremental cost of necessary duplication or publication, not including labor. The cost of paper copies shall be calculated as a total cost per sheet of paper and shall be itemized and noted in a manner that expresses both the cost per sheet and the number of sheets provided. The fee must not exceed 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. A public body shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

(e) The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision may be estimated and charged in time increments of the public body's choosing; however, all partial time increments shall be rounded down.

(f) The actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner. The public body shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor, but may otherwise charge for the least expensive form of postal delivery confirmation when mailing public records.

(2) When calculating labor costs under subsection (1)(a), (b), or (e), fee components shall be itemized in a manner that expresses both the hourly wage and the number of hours charged. The public body may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used to account for benefits in the detailed itemization described in subsection (4). Subject to the 50% limitation, the public body shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed itemization described in subsection (4). A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body 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. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request by either of the following:

(a) An individual who is entitled to information under this act and who submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. If the requestor is eligible for a requested discount, the public body shall fully note the discount on the detailed itemization described under subsection (4). If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if any of the following apply:

(i) The individual has previously received discounted copies of public records under this subsection from the same public body twice during that calendar year.

(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

(b) A nonprofit organization formally designated by the state to carry out activities under subtitle C of the developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors, if the request meets all of the following requirements:

(i) Is made directly on behalf of the organization or its clients.

(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.

(iii) Is accompanied by documentation of its designation by the state, if requested by the public body.

(3) A fee as described in subsection (1) shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

(4) A public body shall establish procedures and guidelines to implement this act and shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary shall be written in a manner so as to be easily understood by the general public. If the public body directly or indirectly administers or maintains an official internet presence, it shall post and maintain the procedures and guidelines and its written public summary on its website. A public body shall make the procedures and guidelines publicly available by providing free copies of the procedures and guidelines and its

written public summary both in the public body's response to a written request and upon request by visitors at the public body's office. A public body that posts and maintains procedures and guidelines and its written public summary on its website may include the website link to the documents in lieu of providing paper copies in its response to a written request. A public body's procedures and guidelines must include the use of a standard form for detailed itemization of any fee amount in its responses to written requests under this act. The detailed itemization must clearly list and explain the allowable charges for each of the 6 fee components listed under subsection (1) that compose the total fee used for estimating or charging purposes. Other public bodies may use a form created by the department of technology, management, and budget or create a form of their own that complies with this subsection. A public body that has not established procedures and guidelines, has not created a written public summary, or has not made those items publicly available without charge as required in this subsection is not relieved of its duty to comply with any requirement of this act and shall not require deposits or charge fees otherwise permitted under this act until it is in compliance with this subsection. Notwithstanding this subsection and despite any law to the contrary, a public body's procedures and guidelines under this act are not exempt public records under section 13.

(5) If the public body directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any charges under subsection (1)(b). If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the public body shall notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed itemization described in subsection (4), the public body shall separate the requested public records that are available on its website from those that are not available on the website and shall inform the requestor of the additional charge to receive copies of the public records that are available on its website. If the public body has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form as described under subsection (1)(c), the public body shall provide the public records in the specified format but may use a fringe benefit multiplier greater than the 50% limitation in subsection (2), not to exceed the actual costs of providing the information in the specified format.

(6) A public body may provide requested information available in public records without receipt of a written request.

(7) If a verbal request for information is for information that a public body believes is available on the public body's website, the public employee shall, where practicable and to the best of the public employee's knowledge, inform the requestor about the public body's pertinent website address.

(8) In either the public body's initial response or subsequent response as described under section 5(2)(d), the public body may require a good-faith deposit from the person requesting information before providing the public records to the requestor if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee described in subsection (4). Subject to subsection (10), the deposit must not exceed 1/2 of the total estimated fee, and a public body's request for a deposit must include a detailed itemization as required under subsection (4). The response must also contain a best efforts estimate by the public body regarding the time frame it will take the public body to comply with the law in providing the public records to the requestor. The time frame estimate is nonbinding upon the public body, but the public body shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this state's public policy under section 1 and the nature of the request in the particular instance. If a public body does not respond in a timely manner as described under section 5(2), it is not relieved from its requirements to provide proper fee calculations and time frame estimates in any tardy responses. Providing an estimated time frame does not relieve a public body from any of the other requirements of this act.

(9) If a public body does not respond to a written request in a timely manner as required under section 5(2), the public body shall do the following:

(a) Reduce the charges for labor costs otherwise permitted under this section by 5% for each day the public body exceeds the time permitted under section 5(2) for a response to the request, with a maximum 50% reduction, if either of the following applies:

(i) The late response was willful and intentional.

(ii) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.

(b) If a charge reduction is required under subdivision (a), fully note the charge reduction on the detailed itemization described under subsection (4).

(10) This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

(11) Subject to subsection (12), after a public body has granted and fulfilled a written request from an individual under this act, if the public body has not been paid in full the total amount under subsection (1) for the copies of public records that the public body made available to the individual as a result of that written request, the public body may require a deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual if all of the following apply:

(a) The final fee for the prior written request was not more than 105% of the estimated fee.

(b) The public records made available contained the information being sought in the prior written request and are still in the public body's possession.

(c) The public records were made available to the individual, subject to payment, within the time frame estimate described under subsection (8).

(d) Ninety days have passed since the public body notified the individual in writing that the public records were available for pickup or mailing.

(e) The individual is unable to show proof of prior payment to the public body.

(f) The public body calculates a detailed itemization, as required under subsection (4), that is the basis for the current written request's increased estimated fee deposit.

(12) A public body shall no longer require an increased estimated fee deposit from an individual as described under subsection (11) if any of the following apply:

(a) The individual is able to show proof of prior payment in full to the public body.

(b) The public body is subsequently paid in full for the applicable prior written request.

(c) Three hundred sixty-five days have passed since the individual made the written request for which full payment was not remitted to the public body.

(13) A deposit required by a public body under this act is a fee.

(14) If a deposit that is required under subsection (8) or (11) is not received by the public body within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 10a, the request shall be considered abandoned by the requesting person and the public body is no longer required to fulfill the request. Notice of a deposit requirement under subsection (8) or (11) is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement under subsection (8) or (11) must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1988, Act 99, Imd. Eff. Apr. 11, 1988;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2018, Act 523, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 38, Imd. Eff. Mar. 3, 2020.

Constitutionality: The disclosure of public records under the freedom of information act impartially to the general public for the incremental cost of creating the record is not a granting of credit by the state in aid of private persons and does not justify nondisclosure on the theory that the information is proprietary information belonging to a public body. *Kestenbaum v Michigan State University*, 414 Mich 510; 417 NW2d 1102 (1982).

Popular name: Act 442

Popular name: FOIA

15.235 Request to inspect or receive copy of public record; response to request; failure to respond; damages; contents of notice denying request; signing notice of denial; notice extending period of response; action by requesting person; law enforcement records management system; alternate responses.

Sec. 5. (1) Except as provided in section 3, a person desiring to inspect or receive a copy of a public record shall make a written request for the public record to the FOIA coordinator of a public body. A written request made by facsimile, electronic mail, or other electronic transmission is not received by a public body's FOIA coordinator until 1 business day after the electronic transmission is made. However, if a written request is sent by electronic mail and delivered to the public body's spam or junk-mail folder, the request is not received until 1 day after the public body first becomes aware of the written request. The public body shall note in its records both the time a written request is delivered to its spam or junk-mail folder and the time the public body first becomes aware of that request.

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall, subject to subsection (10), respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following:

- (a) Granting the request.
- (b) Issuing a written notice to the requesting person denying the request.
- (c) Granting the request in part and issuing a written notice to the requesting person denying the request in part.

(d) Issuing a notice extending for not more than 10 business days the period during which the public body shall respond to the request. A public body shall not issue more than 1 notice of extension for a particular request.

(3) Failure to respond to a request under subsection (2) constitutes a public body's final determination to deny the request if either of the following applies:

- (a) The failure was willful and intentional.
- (b) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference to this act, on the front of an envelope or in the subject line of an electronic mail, letter, or facsimile cover page.

(4) In a civil action to compel a public body's disclosure of a public record under section 10, the court shall assess damages against the public body under section 10(7) if the court has done both of the following:

- (a) Determined that the public body has not complied with subsection (2).
 - (b) Ordered the public body to disclose or provide copies of all or a portion of the public record.
- (5) A written notice denying a request for a public record in whole or in part is a public body's final determination to deny the request or portion of that request. The written notice must contain:

(a) An explanation of the basis under this act or other statute for the determination that the public record, or portion of that public record, is exempt from disclosure, if that is the reason for denying all or a portion of the request.

(b) A certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the public body, if that is the reason for denying the request or a portion of the request.

(c) A description of a public record or information on a public record that is separated or deleted under section 14, if a separation or deletion is made.

(d) A full explanation of the requesting person's right to do either of the following:

- (i) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial.
- (ii) Seek judicial review of the denial under section 10.

(e) Notice of the right to receive attorneys' fees and damages as provided in section 10 if, after judicial review, the court determines that the public body has not complied with this section and orders disclosure of all or a portion of a public record.

(6) The individual designated in section 6 as responsible for the denial of the request shall sign the written notice of denial.

(7) If a public body issues a notice extending the period for a response to the request, the notice must specify the reasons for the extension and the date by which the public body will do 1 of the following:

- (a) Grant the request.
- (b) Issue a written notice to the requesting person denying the request.
- (c) Grant the request in part and issue a written notice to the requesting person denying the request in part.
- (8) If a public body makes a final determination to deny in whole or in part a request to inspect or receive a copy of a public record or portion of that public record, the requesting person may do either of the following:
 - (a) Appeal the denial to the head of the public body under section 10.
 - (b) Commence a civil action, under section 10.

(9) Notwithstanding any other provision of this act to the contrary, a public body that maintains a law enforcement records management system and stores public records for another public body that subscribes to the law enforcement records management system is not in possession of, retaining, or the custodian of, a public record stored on behalf of the subscribing public body. If the public body that maintains a law enforcement records management system receives a written request for a public record that is stored on behalf of a subscribing public body, the public body that maintains the law enforcement records management system shall, within 10 business days after receipt of the request, give written notice to the requesting person identifying the subscribing public body and stating that the requesting person shall submit the request to the subscribing public body. As used in this subsection, "law enforcement records management system" means a data storage system that may be used voluntarily by subscribers, including any subscribing public bodies, to share information and facilitate intergovernmental collaboration in the provision of law enforcement services.

(10) A person making a request under subsection (1) may stipulate that the public body's response under subsection (2) be electronically mailed, delivered by facsimile, or delivered by first-class mail. This subsection does not apply if the public body lacks the technological capability to provide an electronically mailed response.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2018, Act 105, Imd. Eff. Apr. 5, 2018;—Am. 2020, Act 36, Imd. Eff. Mar. 3, 2020.

Popular name: Act 442

Popular name: FOIA

15.236 FOIA coordinator.

Sec. 6. (1) A public body that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public body's FOIA coordinator. The FOIA coordinator shall be responsible for accepting and processing requests for the public body's public records under this act and shall be responsible for approving a denial under section 5(4) and (5). In a county not having an executive form of government, the chairperson of the county board of commissioners is designated the FOIA coordinator for that county.

(2) For all other public bodies, the chief administrative officer of the respective public body is designated the public body's FOIA coordinator.

(3) An FOIA coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial under section 5(4) and (5).

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Popular name: Act 442

Popular name: FOIA

15.240 Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as

contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.240a Fee in excess of amount permitted under procedures and guidelines or MCL 15.234.

Sec. 10a. (1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee

that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

History: Add. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.240b Failure to comply with act; civil fine.

Sec. 10b. If the court determines, in an action commenced under this act, that a public body willfully and intentionally failed to comply with this act or otherwise acted in bad faith, the court shall order the public body to pay, in addition to any other award or sanction, a civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence. In determining the amount of the civil fine, the court shall consider the budget of the public body and whether the public body has previously been assessed penalties for violations of this act. The civil fine shall be deposited in the general fund of the state treasury.

History: Add. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.241 Matters required to be published and made available by state agency; form of publications; effect of matter not published and made available; exception; action to compel compliance by state agency; order; attorneys' fees, costs, and disbursements; jurisdiction; definitions.

Sec. 11. (1) A state agency shall publish and make available to the public all of the following:

(a) Final orders or decisions in contested cases and the records on which they were made.

(b) Promulgated rules.

(c) Other written statements that implement or interpret laws, rules, or policy, including but not limited to guidelines, manuals, and forms with instructions, adopted or used by the agency in the discharge of its functions.

(2) Publications may be in electronic format or in pamphlet, loose-leaf, or other appropriate form in printed, mimeographed, or other written matter.

(3) Except to the extent that a person has actual and timely notice of the terms thereof, a person is not required to resort to, and shall not be adversely affected by, a matter required to be published and made available, if the matter is not so published and made available.

(4) This section does not apply to public records that are exempt from disclosure under section 13.

(5) A person may commence an action in the court of claims to compel a state agency to comply with this section. If the court determines that the state agency has failed to comply, the court shall order the state agency to comply and shall award reasonable attorneys' fees, costs, and disbursements to the person commencing the action. The court of claims has exclusive jurisdiction to issue the order.

(6) As used in this section, "state agency", "contested case", and "rule" mean "agency", "contested case", and "rule" as those terms are defined in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2020, Act 37, Imd. Eff. Mar. 3, 2020.

Popular name: Act 442

Popular name: FOIA

15.243 Exemptions from disclosure; public body as school district, intermediate school district, or public school academy; withholding of information required by law or in possession of executive office.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(i) Interfere with law enforcement proceedings.

(ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(iii) Constitute an unwarranted invasion of personal privacy.

(iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(v) Disclose law enforcement investigative techniques or procedures.

(vi) Endanger the life or physical safety of law enforcement personnel.

(vii) Disclose the identity of a party who, as described in subdivision (cc), proceeds anonymously in a civil action in which the party alleges that the party was the victim of sexual misconduct. For the purpose of securing the party's anonymity, that party or the party's designee may provide written notification of the civil action and the party's wish to remain anonymous to any law enforcement agency that has investigating records subject to this subparagraph, and the law enforcement agency shall retain a copy of that notification in its files with those investigating records.

(c) A public record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(i) The information is submitted upon a promise of confidentiality by the public body.

(ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until either of the following occurs:

(i) An agreement is entered into.

(ii) Three years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(l) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation, including protected health information, as defined in 45 CFR 160.103.

(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of natural resources may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(i) Identify or provide a means of identifying an informant.

(ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(iii) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(iv) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(v) Disclose operational instructions for law enforcement officers or agents.

(vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(ix) Disclose personnel records of law enforcement agencies.

(x) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(i) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(ii) The fact that an allegation was received by the department; the fact that the department did not issue a

complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the Social Security number of an individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, or the confidentiality, integrity, or availability of information systems, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and cybersecurity plans, assessments, or vulnerabilities, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(z) Information that would identify or provide a means of identifying a person that may, as a result of disclosure of the information, become a victim of a cybersecurity incident or that would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software.

(aa) Research data on road and attendant infrastructure collected, measured, recorded, processed, or disseminated by a public agency or private entity, or information about software or hardware created or used by the private entity for such purposes.

(bb) Records or information that would reveal the specific location or GPS coordinates of game, including, but not limited to, records or information of the specific location or GPS coordinates of game obtained by the department of natural resources during any restoration, management, or research project conducted under section 40501 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40501, or in connection with the expenditure of money under section 43553 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43553. As used in this subdivision, "game" means that term as defined in section 40103 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40103.

(cc) Information that would reveal the identity of a party who proceeds anonymously in a civil action in which the party alleges that the party was the victim of sexual misconduct. As used in this subdivision, "sexual misconduct" means the conduct described in section 90, 136, 145a, 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b, 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, regardless of whether the conduct resulted in a criminal conviction.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974. A public body that is a local or intermediate school district or a public school academy shall exempt from disclosure directory information, as defined by 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974, requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. A public body that is a local or intermediate school district or a public school academy may take steps to ensure that directory information disclosed under this subsection is not used, rented, or sold for the purpose of surveys, marketing, or solicitation. Before disclosing the directory information, a public body that is a local or intermediate school district or a public school academy may require the requestor to execute an affidavit stating that directory information provided under this subsection will not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

(3) This act does not authorize the withholding of information otherwise required by law to be made

available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1993, Act 82, Eff. Apr. 1, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2000, Act 88, Imd. Eff. May 1, 2000;—Am. 2001, Act 74, Imd. Eff. July 24, 2001;—Am. 2002, Act 130, Eff. May 1, 2002;—Am. 2002, Act 437, Eff. Aug. 1, 2002;—Am. 2006, Act 482, Imd. Eff. Dec. 22, 2006;—Am. 2018, Act 68, Eff. June 17, 2018;—Am. 2021, Act 33, Imd. Eff. June 24, 2021;—Am. 2023, Act 64, Imd. Eff. July 12, 2023.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of powers and duties of the state historic preservation office relating to the identification, certification, and preservation of historical sites from the Michigan state housing development authority to the Michigan strategic fund, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Popular name: Act 442

Popular name: FOIA

15.243a Salary records of employee or other official of institution of higher education, school district, intermediate school district, or community college available to public on request.

Sec. 13a. Notwithstanding section 13, an institution of higher education established under section 5, 6, or 7 of article 8 of the state constitution of 1963; a school district as defined in section 6 of Act No. 451 of the Public Acts of 1976, being section 380.6 of the Michigan Compiled Laws; an intermediate school district as defined in section 4 of Act No. 451 of the Public Acts of 1976, being section 380.4 of the Michigan Compiled Laws; or a community college established under Act No. 331 of the Public Acts of 1966, as amended, being sections 389.1 to 389.195 of the Michigan Compiled Laws shall upon request make available to the public the salary records of an employee or other official of the institution of higher education, school district, intermediate school district, or community college.

History: Add. 1979, Act 130, Imd. Eff. Oct. 26, 1979.

Popular name: Act 442

Popular name: FOIA

15.244 Separation of exempt and nonexempt material; design of public record; description of material exempted.

Sec. 14. (1) If a public record contains material which is not exempt under section 13, as well as material which is exempt from disclosure under section 13, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

(2) When designing a public record, a public body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.245 Repeal of MCL 24.221, 24.222, and 24.223.

Sec. 15. Sections 21, 22 and 23 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.221, 24.222 and 24.223 of the Michigan Compiled Laws, are repealed.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.246 Effective date.

Sec. 16. This act shall take effect 90 days after being signed by the governor.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA



Board:	City Commission
Agenda Date:	06-08-2026
Department:	City Commission
Presenter:	Kim Berry, City Clerk

Staff Report

Agenda Item Title:

Freedom of Information Act (FOIA) Appeal of Denial of Public Record – Michael O'Connor

Background:

City of Gladstone FOIA Policies and Guidelines Section 8 Appeal of Denial of a Public Record (page 8) also located on City website

The Requestor must appeal to the City Commission and identify the reason or reasons the requestor is seeking a reversal of the denial.

The City of Gladstone Commission is not considered to have received a written appeal until the first regularly scheduled City of Gladstone Commission meeting following submission of the written appeal.

Within 10 business days after receiving the appeal, the City of Gladstone Commission 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; or
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the City of Gladstone Commission shall respond to the written appeal. The City of Gladstone Commission shall not issue more than 1 notice of extension for a particular written appeal.

Fiscal Effect:

None

Supporting Documentation:

- Appeal dated 06-02-2026
- FOIA Request 2026-06 City Response
- City of Gladstone FOIA Policies and Guidelines Re: Section 8 Appeal of a Denial of a Public Record
- State of Michigan FOIA law

Recommendation:

The appeal was submitted as a denial of public record; the FOIA request was not denied it was approved as stated in the city response letter (attached). All public records were provided unredacted upon payment of the FOIA fee. One must examine and review the public records to determine if there are exempt records or nonexempt records.

Motion to uphold the approval of FOIA request as no public records were denied and to uphold the fee in the amount of \$23.62 as MCL15.234 Section 4 (1) allows for the examination, review and the deletion and separation of exempt from nonexempt information.

Michael O'Connor
526 Minnesota Avenue
Gladstone, Michigan 49837
(906) 241-9808

Rob Spreitzer City Manager
City of Gladstone
1100 Delta Ave
Gladstone, Mi 49837

"APPEAL"

June 2nd, 2026

Re: Appeal Denial of a Public Record Request N. 2026-06 Received on 5 29 2026

Dear Mr. Spreitzer,

Please submit my request for City of Gladstone Commission to review section 2 of the City of Gladstone FOIA Fee Itemization Form "Employee labor Costs - Redaction" as no document was provided with redactions. Of the 19 separate stapled communications none had any redactions. Please provide copies of the redacted pages or if no documents were redacted please return the cost associated with the redaction.

Sincerely,



Michael O'Connor

CITY OF GLADSTONE
FOIA Fee Itemization Form

Date: 05-26-2026Name: Michael O'Connor

<u>Component</u>	<u>Cost Calculations</u>	<u>Total</u>
1. Labor Costs – Search, Location, and Examination of Records*	Enter the hourly wage of lowest paid employee capable of performing the search, location and examination $\\$47.27$ per hour 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) $\underline{\hspace{2cm}}\%$ Multiply the hourly wage times the fringe benefit multiplier $\\$ \underline{\hspace{2cm}} \times 1. \underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}$ If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) $\\$ \underline{\hspace{2cm}} + \underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}$ Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment $\\$47.27 / 4 = \\11.81 Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate $114 \text{ minutes} / 15 \text{ minutes} = 7.6 \times \\$11.81 = \\$89.75$	\$89.75
2. Employee Labor Costs – Redaction*	If performed by the public body's employee: Enter the hourly wage of lowest paid employee capable of performing the redaction $\\$47.27$ per hour 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) $\underline{\hspace{2cm}}\%$ Multiply the hourly wage times the fringe benefit multiplier $\\$ \underline{\hspace{2cm}} \times 1. \underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}$	

	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 \$47.27 / 4 = \$11.81 _____ Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate 30 minutes/15 minutes = 2 x \$11.81 = \$23.62 _____	\$23.62
3. 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 \$ _____ = \$ _____	\$0.0
4. Non-Paper Physical Media	Actual and most reasonably economical cost of: Flash Drives \$ _____ x number used _____ = \$ _____ Computer Discs \$ _____ x number used _____ = \$ _____ Other Media \$ _____ number used _____ = \$ _____	\$0.0
5. Paper Copies	Actual total incremental cost of duplication (not including labor) up to a <u>maximum of 10 cents per page</u>: Letter paper (8 ½" x 11") number of sheets 55 x \$0.02 = \$1.10 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.)	\$1.10
6. Labor Cost – Duplication Copying, and transferring records to non-paper physical media	Enter the hourly wage of lowest paid employee capable of performing the duplication, copying, or transferring digital records to non-paper physical media \$ _____ per hour 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 _____ 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 \$ _____ = \$ _____	\$0.0
7. Mailing	Actual cost of mailing records in a reasonable and economical manner: Cost of mailing: \$ _____ Cost of least expensive form of postal delivery confirmation: \$ _____	\$0.0

	Cost of expedited shipping or insurance only if specifically stipulated by the requestor: \$ _____	
	Subtotal	\$ <u>114.47</u>
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%)	-\$ <u>0.0</u>
Deposit: _____	Subtract any good-faith deposit received: \$ _____	-\$ _____
Invoice: <u>XX</u>	Request will be processed upon payment of required deposit: balance must be paid before copies may be picked up, delivered or mailed Total Due	\$ <u>114.47</u>
Estimate _____	Estimated time frame to provide records: <u>5</u> business days	
	The estimated timeframe is nonbinding upon the City; the City is <u>providing</u> the estimate in good faith.	
	Request will be processed upon payment of required deposit: balance must be paid before copies may be picked up, delivered or mailed Date Paid	

*Note: Labor costs for search, location, examination and redaction (categories 1 and 2 on the itemization form) may not be charged unless the failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

The public summary of the City's FOIA Procedures and Guidelines is available free of charge from:
 Website: www.gladstonemi.gov Email: kberry@gladstonemi.gov

Kim Berry, City Clerk
 906-428-2311
 1100 Delta Avenue, Gladstone, MI. 49837

Request No. 2026-06 _____
 Date: 05-26-2026 _____
 Name: Michael O'Connor _____



CITY OF GLADSTONE, MICHIGAN

CITY HALL, 1100 DELTA AVENUE

GLADSTONE, MI 49837

PHONE: 906-428-2311

FAX: 906-428-3122

www.gladstonemi.gov

May 26, 2026

VIA FIRST CLASS MAIL

Mr. Michael O'Connor
526 Minnesota Avenue
Gladstone, MI. 49837

Re: FOIA Request #2026-06

Mr. O'Connor

The City of Gladstone (the "City") is writing in response to your Freedom of Information Act ("FOIA") request dated May 4, 2026, your request identified as:

Requested Information:

The Electrical Department has determined there is a need for the replacement of the two power transformers at a cost of over one million dollars. Please provide all documentation concerning the need for replacement (testing conducted on the 2 existing units) and all other documentation between the City and WPPI, PSE or any other 3rd party on the matter.

Your request is granted. Upon receipt of payment of \$114.47 a copy of the documents will be provided to you within five (5) business days.

The City's FOIA Procedures and Guidelines and Public Written Summary are maintained on its website and may be accessed at:

<https://www.gladstonemi.gov/media/2776>

A copy of this request will be kept on file for no less than one (1) year. Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Kimberly Berry
Gladstone City Clerk



A WPPI Energy community

The City of Gladstone is an equal opportunity employer and provider.

City of Gladstone

FOIA Procedures and Guidelines

Preamble: Statement of Principles

It is the policy of City of Gladstone that all persons, except those incarcerated, 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 City of Gladstone'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 City of Gladstone acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The City of Gladstone 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.

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

The City of Gladstone Commission has established the following written procedures and guidelines to implement the FOIA and will create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary will be written in a manner so as to be easily understood by the general public.

Section 1: General Policies

The City of Gladstone Commission, acting pursuant to the authority at MCL 15.236, designates the City Clerk as the FOIA Coordinator. He or she is authorized to designate other City of Gladstone staff to act on his or her behalf to accept and process written requests for the City of Gladstone'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 City of Gladstone 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 City of Gladstone spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with City of Gladstone Information Technology staff to develop administrative rules for handling spam and junk-mail so as to protect City of Gladstone systems from computer attacks which 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 City of Gladstone 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 City of Gladstone 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 City of Gladstone on file for a period of at least one year.

The City of Gladstone will make this Procedures and Guidelines document and the Written Public Summary publicly available without charge. If it does not, the City of Gladstone cannot require deposits or charge fees otherwise permitted under the FOIA until it is in compliance.

A copy of this Procedures and Guidelines document and the City of Gladstone's Written Public Summary must be publicly available by providing free copies both in the City of Gladstone's response to a written request and upon request by visitors at the City of Gladstone's office.

This Procedures and Guidelines document and the City of Gladstone's Written Public Summary will be maintained on the City of Gladstone's website at: www.gladstonemi.org, so a link to those documents will be provided in lieu of providing paper copies of those documents.

Section 2: Requesting a 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.

Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City of Gladstone may be submitted on the City of Gladstone's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.

Verbal requests for records may be documented by the City of Gladstone on the City of Gladstone's FOIA Request Form.

If a person makes a verbal, non-written request for information believed to be available on the City of Gladstone's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

A request must sufficiently describe a public record so as to enable City of Gladstone personnel to identify and find the requested public record.

Written requests for public records may be submitted in person or by mail to any City of Gladstone 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, emailed or other otherwise provided to him or her in digital form in lieu of paper copies. The City of Gladstone 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 City of Gladstone on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

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, the City of Gladstone will issue a response within 5 business days of receipt of a FOIA request. 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 City of Gladstone will respond to a 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 City of Gladstone needs an additional 10 business days to respond for a total of no more than 15 business days. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the City of Gladstone's website.

When a request is granted:

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 and the Written Public Summary will be provided to the requestor free of charge with the response to a written request for public records, provided however, that because these Procedures and Guidelines, and the Written Public Summary are maintained on the City of Gladstone's website at: www.gladstonemi.org, a link to the Procedures and Guidelines and the Written Public Summary will be provided in lieu of providing paper copies of those documents.

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 the cost of processing a FOIA request is expected to exceed \$50 based on a good-faith calculation, or if the requestor has not paid in full for a previously granted request, the City of Gladstone will require a good-faith deposit pursuant to Section 4 of this policy 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 City of Gladstone to process the request and also provide a best efforts estimate of a time frame it will take the City of Gladstone to provide the records to the requestor. The best efforts estimate shall be nonbinding on the City of Gladstone, 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.

When a request is denied or denied in part:

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 City of Gladstone; 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 City of Gladstone Manager or seek judicial review in the Delta County Circuit Court;
- 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 or authorized representative.

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.

Inspection of a Public Record

Upon receiving a verbal request to inspect City records, the City shall furnish the requesting person with a reasonable opportunity and reasonable facilities for inspection and examination of its public records.

A person shall be allowed to inspect public records during usual business hours, not less than four hours per day. The public does not have unlimited access to City offices or facilities, and a person may be required to inspect records at a specified counter or table, and in view of City personnel.

City officials, appointees, staff or consultants/contractors assisting with inspection of public records shall inform any person inspecting records that only pencils, and no pens or ink, may be used to take notes.

In coordination with the official responsible for the records, the FOIA coordinator shall determine on a case-by-case basis when the City will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

The City Clerk is responsible for identifying if records or information requested by the public is stored in digital files or e-mail, even if the public does not specifically request a digital file or e-mail.

A person cannot remove books, records or files from the place the City has provided for the inspection.

No documents shall be removed from the office of the custodian of those documents without permission of that custodian, except by court order, subpoena or for audit purposes. The official shall be given a receipt listing the records being removed. Documents may be removed from the office of the custodian of those documents with permission of that custodian to accommodate public inspection of those documents.

Copies May Be Required to Enable Public Inspection of Records

In coordination with the official responsible for the records, the FOIA coordinator will determine (*by policy, on a case-by-case basis, or both*) when the City will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

A fee will be charged for copies made to enable public inspection of records, according to the City's FOIA policy.

Requests for certified copies:

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, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not paid the City of Gladstone in full 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 City of Gladstone's possession;
- The public records were made available to the individual, subject to payment, within the time frame estimated by the City of Gladstone to provide the records;
- Ninety (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 City of Gladstone; 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 Coordinator will not require an increased estimated fee deposit if any of the following apply:

- The person making the request is able to show proof of prior payment in full to the City of Gladstone;
- The City of Gladstone is subsequently paid in full for the applicable prior written request; or
- Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to the City of Gladstone.

Section 5: Calculation of Fees

A fee may be charged for the labor cost of copying/duplication.

A fee will **not** be charged for the labor 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 City of Gladstone because of the nature of the request in the particular instance, and the City of Gladstone specifically identifies the nature of the unreasonably high costs.

Costs for the search, examination review, and deletion and separation of exempt from non-exempt information are "unreasonably high" when they are excessive and beyond the normal or usual amount for those services (Attorney General Opinion 7083 of 2001) compared to the costs of the City of Gladstone's usual FOIA requests, not compared to the City of Gladstone's operating budget. (*Bloch v. Davison Community Schools*, Michigan Court of Appeals, Unpublished, April 26, 2011)

The following factors shall be used to determine an unreasonably high cost to the City of Gladstone:

- 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 the public records are from more than one City of Gladstone department or whether various City of Gladstone offices are 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 Michigan FOIA statute permits the City of Gladstone to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- 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 City of Gladstone.
- 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 City of Gladstone.
- 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 City of Gladstone's website if you ask for the City of Gladstone to make copies.
- 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 City of Gladstone's website if you ask for the City of Gladstone to make copies.
- The cost to mail or send a public record to a requestor.

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. If the time involved is less than 15 minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid City of Gladstone 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 City of Gladstone 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 unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at the hourly rate of \$48.90 (6 times the state minimum hourly wage).

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- 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 City of Gladstone has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- The City of Gladstone will procure any non-paper media and will not accept media from the requestor in order to ensure integrity of the City of Gladstone's technology infrastructure.

The cost to provide paper copies of records will be based on the following requirements:

- 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-standard sized sheets of paper will reflect the actual cost of reproduction.
- The City of Gladstone will provide records using double-sided printing, if it is cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The City of Gladstone may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless specified by the requestor.

If the FOIA Coordinator does not respond to a written request in a timely manner, the City of Gladstone must:

- Reduce the labor costs by 5% for each day the City of Gladstone exceeds the time permitted under FOIA up to a 50% maximum reduction, if **any** of the following applies:
 - The City of Gladstone's late response was willful and intentional,
 - The written request conveyed a request for information within the first 250 words of the body of a letter facsimile, email or email attachment, or
 - 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 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 it can be considered as primarily benefitting the general public. The City of Gladstone Commission may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

Section 7: Discounted Fees

Indigence

The FOIA Coordinator will discount 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:

- Indigent and receiving specific public assistance, or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

An individual is not eligible to receive the waiver if:

- The requestor has previously received discounted copies of public records from the City of Gladstone 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.

Nonprofit organization advocating for developmentally disabled or mentally ill individuals

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from:

- A nonprofit organization formally designated by the state to carry out activities under subtitle C of the federal developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, 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 reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.
 - Is accompanied by documentation of its designation by the state, if requested by the public body.

Section 8: 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 appeal to the City of Gladstone Commission by filing an appeal of the denial with the office of City of Gladstone Manager.

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. The City of Gladstone FOIA Appeal Form (To Appeal a Denial of Records), may be used.

The City of Gladstone Commission is not considered to have received a written appeal until the first regularly scheduled City of Gladstone Commission meeting following submission of the written appeal.

Within 10 business days of receiving the appeal the City of Gladstone Commission 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; or
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the City of Gladstone Commission shall respond to the written appeal. The City of Gladstone Commission shall not issue more than 1 notice of extension for a particular written appeal.

If the City of Gladstone Commission fails to respond to a written appeal, or if the City of Gladstone Commission upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action in Circuit Court.

Whether or not a requestor submitted an appeal of a denial to the City of Gladstone Commission, he or she may file a civil action in Delta County Circuit Court within 180 days after the City of Gladstone's final determination to deny the request.

If a court that determines a public record is not exempt from disclosure, it shall order the City of Gladstone to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Failure to comply with an order of the court may be punished as contempt of court.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in such an action, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or City of Gladstone prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

If the court determines that the City of Gladstone has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the City of Gladstone to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

Section 9: Appeal of an Excessive FOIA Processing Fee

"Fee" means the total fee or any component of the total fee calculated under section 4 of the FOIA, including any deposit.

If a requestor believes that the fee charged by the City of Gladstone to process a FOIA request exceeds the amount permitted by state law or under this policy, he or she must first appeal to the City of Gladstone Commission by submitting a written appeal for a fee reduction to the office of the City of Gladstone Manager.

The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The City of Gladstone FOIA Appeal Form (To Appeal an Excess Fee) may be used.

The City of Gladstone Commission is not considered to have received a written appeal until the first regularly scheduled City of Gladstone Commission meeting following submission of the written appeal.

Within 10 business days after receiving the appeal, the City of Gladstone Commission will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the City of Gladstone Commission will respond to the written appeal. The City of Gladstone Commission shall not issue more than 1 notice of extension for a particular written appeal.

Where the City of Gladstone Commission reduces or upholds the fee, the determination must include a certification from the City of Gladstone Commission that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and Section 4 of the FOIA.

Within 45 days after receiving notice of the City of Gladstone Commission's determination of an appeal, the requesting person may commence a civil action in Delta County Circuit Court for a fee reduction.

If a civil action is commenced against the City of Gladstone for an excess fee, the City of Gladstone is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

An action shall not be filed in circuit court unless **one** of the following applies:

- The City of Gladstone does not provide for appeals of fees,
- The City of Gladstone Commission failed to respond to a written appeal as required, or
- The City of Gladstone Commission issued a determination to a written appeal.

If a court determines that the City of Gladstone required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or Section 4 of the FOIA, the court shall reduce the fee to a permissible amount. Failure to comply with an order of the court may be punished as contempt of court.

If the requesting person prevails in court by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages.

If the court determines that the City of Gladstone has arbitrarily and capriciously violated the FOIA by charging an excessive fee, the court shall order the City of Gladstone to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

Section 10: Conflict with Prior FOIA Policies and Procedures; Effective Date

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by City of Gladstone Commission or the City of Gladstone 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 City of Gladstone Commission or the City of Gladstone 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 City of Gladstone Commission or the City of Gladstone Administration, 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 City of Gladstone Commission of any change these Policies and Guidelines.

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

Section 11: Appendix of City of Gladstone FOIA Forms

- Request for Public Records Form
- Notice to Extend Response Time Form
- Notice of Denial Form
- Detailed Cost Itemization Form
- Appeal of Denial of Records Form
- Appeal of Excess Fee Form

FREEDOM OF INFORMATION ACT

Act 442 of 1976

AN ACT to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

The People of the State of Michigan enact:

15.231 Short title; public policy.

Sec. 1. (1) This act shall be known and may be cited as the "freedom of information act".

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, 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 public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 1997, Act 6, Imd. Eff. May 16, 1997.

Popular name: Act 442

Popular name: FOIA

15.232 Definitions.

Sec. 2. As used in this act:

(a) "Cybersecurity assessment" means an investigation undertaken by a person, governmental body, or other entity to identify vulnerabilities in cybersecurity plans.

(b) "Cybersecurity incident" includes, but is not limited to, a computer network intrusion or attempted intrusion; a breach of primary computer network controls; unauthorized access to programs, data, or information contained in a computer system; or actions by a third party that materially affect component performance or, because of impact to component systems, prevent normal computer system activities.

(c) "Cybersecurity plan" includes, but is not limited to, information about a person's information systems, network security, encryption, network mapping, access control, passwords, authentication practices, computer hardware or software, or response to cybersecurity incidents.

(d) "Cybersecurity vulnerability" means a deficiency within computer hardware or software, or within a computer network or information system, that could be exploited by unauthorized parties for use against an individual computer user or a computer network or information system.

(e) "Field name" means the label or identification of an element of a computer database that contains a specific item of information, and includes but is not limited to a subject heading such as a column header, data dictionary, or record layout.

(f) "FOIA coordinator" means either of the following:

(i) An individual who is a public body.

(ii) An individual designated by a public body in accordance with section 6 to accept and process requests for public records under this act.

(g) "Person" 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 this state or any other state, or in a federal correctional facility.

(h) "Public body" means any of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.

(ii) An agency, board, commission, or council in the legislative branch of the state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.

(iv) Any other body that is created by state or local authority or is primarily funded by or through state or

local authority, except that the judiciary, including the office of the county clerk and its employees when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

(i) "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software. This act separates public records into the following 2 classes:

(i) Those that are exempt from disclosure under section 13.

(ii) All public records that are not exempt from disclosure under section 13 and that are subject to disclosure under this act.

(j) "Software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result. Software does not include computer-stored information or data, or a field name if disclosure of that field name does not violate a software license.

(k) "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

(i) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.

(ii) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

(l) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, hard drives, solid state storage components, or other means of recording or retaining meaningful content.

(m) "Written request" means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2018, Act 68, Eff. June 17, 2018.

Popular name: Act 442

Popular name: FOIA

15.233 Public records; request requirements; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies.

Sec. 3. (1) Except as expressly provided in section 13, upon providing a public body's FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of the requested public record of the public body. A request from a person, other than an individual who qualifies as indigent under section 4(2)(a), must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription is valid for up to 6 months, at the request of the subscriber, and is renewable. An employee of a public body who receives a request for a public record shall promptly forward that request to the freedom of information act coordinator.

(2) A freedom of information act coordinator shall keep a copy of all written requests for public records on file for no less than 1 year.

(3) A public body shall furnish a requesting person a reasonable opportunity for inspection and examination of its public records, and shall furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours. A public body may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. A public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

(4) This act does not require a public body to make a compilation, summary, or report of information, except as required in section 11.

(5) This act does not require a public body to create a new public record, except as required in section 11,

and to the extent required by this act for the furnishing of copies, or edited copies pursuant to section 14(1), of an already existing public record.

(6) The custodian of a public record shall, upon written request, furnish a requesting person a certified copy of a public record.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2018, Act 523, Imd. Eff. Dec. 28, 2018.

Popular name: Act 442

Popular name: FOIA

15.234 Fee; limitation on total fee; labor costs; establishment of procedures and guidelines; creation of written public summary; detailed itemization; availability of information on website; notification to requestor; deposit; failure to respond in timely manner; increased estimated fee deposit; deposit as fee; failure to pay or appeal deposit; request abandoned.

Sec. 4. (1) A public body may charge a fee for a public record search, for the necessary copying of a public record for inspection, or for providing a copy of a public record if it has established, makes publicly available, and follows procedures and guidelines to implement this section as described in subsection (4). Subject to subsections (2), (3), (4), (5), and (9), the fee must be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. Except as otherwise provided in this act, if the public body estimates or charges a fee in accordance with this act, the total fee must not exceed the sum of the following components:

(a) That portion of labor costs directly associated with the necessary searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in the particular instance regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.

(b) That portion of labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information as provided in section 14. For services performed by an employee of the public body, the public body shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14, regardless of whether that person is available or who actually performs the labor. If a public body does not employ a person capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14 as determined by the public body's FOIA coordinator on a case-by-case basis, it may treat necessary contracted labor costs used for the separating and deleting of exempt information from nonexempt information in the same manner as employee labor costs when calculating charges under this subdivision if it clearly notes the name of the contracted person or firm on the detailed itemization described under subsection (4). Total labor costs calculated under this subdivision for contracted labor costs must not exceed an amount equal to 6 times the state minimum hourly wage rate determined under section 4 of the improved workforce opportunity wage act, 2018 PA 337, MCL 408.934. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. A public body shall not charge for labor directly associated with redaction under section 14 if it knows or has reason to know that it previously redacted the public record in question and the redacted version is still in the public body's possession.

(c) For public records provided to the requestor on any form of nonpaper physical media, the actual and most reasonably economical cost of the nonpaper physical media. The requestor may stipulate that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies. This subdivision does not apply if a public body lacks the technological capability necessary to provide records on the particular nonpaper physical media stipulated in the particular instance.

(d) For paper copies of public records provided to the requestor, the actual total incremental cost of necessary duplication or publication, not including labor. The cost of paper copies shall be calculated as a total cost per sheet of paper and shall be itemized and noted in a manner that expresses both the cost per sheet and the number of sheets provided. The fee must not exceed 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. A public body shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

(e) The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision may be estimated and charged in time increments of the public body's choosing; however, all partial time increments shall be rounded down.

(f) The actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner. The public body shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor, but may otherwise charge for the least expensive form of postal delivery confirmation when mailing public records.

(2) When calculating labor costs under subsection (1)(a), (b), or (e), fee components shall be itemized in a manner that expresses both the hourly wage and the number of hours charged. The public body may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used to account for benefits in the detailed itemization described in subsection (4). Subject to the 50% limitation, the public body shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed itemization described in subsection (4). A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body 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. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request by either of the following:

(a) An individual who is entitled to information under this act and who submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. If the requestor is eligible for a requested discount, the public body shall fully note the discount on the detailed itemization described under subsection (4). If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if any of the following apply:

(i) The individual has previously received discounted copies of public records under this subsection from the same public body twice during that calendar year.

(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

(b) A nonprofit organization formally designated by the state to carry out activities under subtitle C of the developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors, if the request meets all of the following requirements:

(i) Is made directly on behalf of the organization or its clients.

(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.

(iii) Is accompanied by documentation of its designation by the state, if requested by the public body.

(3) A fee as described in subsection (1) shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

(4) A public body shall establish procedures and guidelines to implement this act and shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary shall be written in a manner so as to be easily understood by the general public. If the public body directly or indirectly administers or maintains an official internet presence, it shall post and maintain the procedures and guidelines and its written public summary on its website. A public body shall make the procedures and guidelines publicly available by providing free copies of the procedures and guidelines and its

written public summary both in the public body's response to a written request and upon request by visitors at the public body's office. A public body that posts and maintains procedures and guidelines and its written public summary on its website may include the website link to the documents in lieu of providing paper copies in its response to a written request. A public body's procedures and guidelines must include the use of a standard form for detailed itemization of any fee amount in its responses to written requests under this act. The detailed itemization must clearly list and explain the allowable charges for each of the 6 fee components listed under subsection (1) that compose the total fee used for estimating or charging purposes. Other public bodies may use a form created by the department of technology, management, and budget or create a form of their own that complies with this subsection. A public body that has not established procedures and guidelines, has not created a written public summary, or has not made those items publicly available without charge as required in this subsection is not relieved of its duty to comply with any requirement of this act and shall not require deposits or charge fees otherwise permitted under this act until it is in compliance with this subsection. Notwithstanding this subsection and despite any law to the contrary, a public body's procedures and guidelines under this act are not exempt public records under section 13.

(5) If the public body directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any charges under subsection (1)(b). If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the public body shall notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed itemization described in subsection (4), the public body shall separate the requested public records that are available on its website from those that are not available on the website and shall inform the requestor of the additional charge to receive copies of the public records that are available on its website. If the public body has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form as described under subsection (1)(c), the public body shall provide the public records in the specified format but may use a fringe benefit multiplier greater than the 50% limitation in subsection (2), not to exceed the actual costs of providing the information in the specified format.

(6) A public body may provide requested information available in public records without receipt of a written request.

(7) If a verbal request for information is for information that a public body believes is available on the public body's website, the public employee shall, where practicable and to the best of the public employee's knowledge, inform the requestor about the public body's pertinent website address.

(8) In either the public body's initial response or subsequent response as described under section 5(2)(d), the public body may require a good-faith deposit from the person requesting information before providing the public records to the requestor if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee described in subsection (4). Subject to subsection (10), the deposit must not exceed 1/2 of the total estimated fee, and a public body's request for a deposit must include a detailed itemization as required under subsection (4). The response must also contain a best efforts estimate by the public body regarding the time frame it will take the public body to comply with the law in providing the public records to the requestor. The time frame estimate is nonbinding upon the public body, but the public body shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this state's public policy under section 1 and the nature of the request in the particular instance. If a public body does not respond in a timely manner as described under section 5(2), it is not relieved from its requirements to provide proper fee calculations and time frame estimates in any tardy responses. Providing an estimated time frame does not relieve a public body from any of the other requirements of this act.

(9) If a public body does not respond to a written request in a timely manner as required under section 5(2), the public body shall do the following:

(a) Reduce the charges for labor costs otherwise permitted under this section by 5% for each day the public body exceeds the time permitted under section 5(2) for a response to the request, with a maximum 50% reduction, if either of the following applies:

(i) The late response was willful and intentional.

(ii) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.

(b) If a charge reduction is required under subdivision (a), fully note the charge reduction on the detailed itemization described under subsection (4).

(10) This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

(11) Subject to subsection (12), after a public body has granted and fulfilled a written request from an individual under this act, if the public body has not been paid in full the total amount under subsection (1) for the copies of public records that the public body made available to the individual as a result of that written request, the public body may require a deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual if all of the following apply:

(a) The final fee for the prior written request was not more than 105% of the estimated fee.

(b) The public records made available contained the information being sought in the prior written request and are still in the public body's possession.

(c) The public records were made available to the individual, subject to payment, within the time frame estimate described under subsection (8).

(d) Ninety days have passed since the public body notified the individual in writing that the public records were available for pickup or mailing.

(e) The individual is unable to show proof of prior payment to the public body.

(f) The public body calculates a detailed itemization, as required under subsection (4), that is the basis for the current written request's increased estimated fee deposit.

(12) A public body shall no longer require an increased estimated fee deposit from an individual as described under subsection (11) if any of the following apply:

(a) The individual is able to show proof of prior payment in full to the public body.

(b) The public body is subsequently paid in full for the applicable prior written request.

(c) Three hundred sixty-five days have passed since the individual made the written request for which full payment was not remitted to the public body.

(13) A deposit required by a public body under this act is a fee.

(14) If a deposit that is required under subsection (8) or (11) is not received by the public body within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 10a, the request shall be considered abandoned by the requesting person and the public body is no longer required to fulfill the request. Notice of a deposit requirement under subsection (8) or (11) is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement under subsection (8) or (11) must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1988, Act 99, Imd. Eff. Apr. 11, 1988;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2018, Act 523, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 38, Imd. Eff. Mar. 3, 2020.

Constitutionality: The disclosure of public records under the freedom of information act impartially to the general public for the incremental cost of creating the record is not a granting of credit by the state in aid of private persons and does not justify nondisclosure on the theory that the information is proprietary information belonging to a public body. *Kestenbaum v Michigan State University*, 414 Mich 510; 417 NW2d 1102 (1982).

Popular name: Act 442

Popular name: FOIA

15.235 Request to inspect or receive copy of public record; response to request; failure to respond; damages; contents of notice denying request; signing notice of denial; notice extending period of response; action by requesting person; law enforcement records management system; alternate responses.

Sec. 5. (1) Except as provided in section 3, a person desiring to inspect or receive a copy of a public record shall make a written request for the public record to the FOIA coordinator of a public body. A written request made by facsimile, electronic mail, or other electronic transmission is not received by a public body's FOIA coordinator until 1 business day after the electronic transmission is made. However, if a written request is sent by electronic mail and delivered to the public body's spam or junk-mail folder, the request is not received until 1 day after the public body first becomes aware of the written request. The public body shall note in its records both the time a written request is delivered to its spam or junk-mail folder and the time the public body first becomes aware of that request.

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall, subject to subsection (10), respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following:

- (a) Granting the request.
- (b) Issuing a written notice to the requesting person denying the request.
- (c) Granting the request in part and issuing a written notice to the requesting person denying the request in part.

(d) Issuing a notice extending for not more than 10 business days the period during which the public body shall respond to the request. A public body shall not issue more than 1 notice of extension for a particular request.

(3) Failure to respond to a request under subsection (2) constitutes a public body's final determination to deny the request if either of the following applies:

- (a) The failure was willful and intentional.
- (b) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference to this act, on the front of an envelope or in the subject line of an electronic mail, letter, or facsimile cover page.

(4) In a civil action to compel a public body's disclosure of a public record under section 10, the court shall assess damages against the public body under section 10(7) if the court has done both of the following:

- (a) Determined that the public body has not complied with subsection (2).
 - (b) Ordered the public body to disclose or provide copies of all or a portion of the public record.
- (5) A written notice denying a request for a public record in whole or in part is a public body's final determination to deny the request or portion of that request. The written notice must contain:

(a) An explanation of the basis under this act or other statute for the determination that the public record, or portion of that public record, is exempt from disclosure, if that is the reason for denying all or a portion of the request.

(b) A certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the public body, if that is the reason for denying the request or a portion of the request.

(c) A description of a public record or information on a public record that is separated or deleted under section 14, if a separation or deletion is made.

(d) A full explanation of the requesting person's right to do either of the following:

- (i) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial.
- (ii) Seek judicial review of the denial under section 10.

(e) Notice of the right to receive attorneys' fees and damages as provided in section 10 if, after judicial review, the court determines that the public body has not complied with this section and orders disclosure of all or a portion of a public record.

(6) The individual designated in section 6 as responsible for the denial of the request shall sign the written notice of denial.

(7) If a public body issues a notice extending the period for a response to the request, the notice must specify the reasons for the extension and the date by which the public body will do 1 of the following:

- (a) Grant the request.
- (b) Issue a written notice to the requesting person denying the request.
- (c) Grant the request in part and issue a written notice to the requesting person denying the request in part.
- (8) If a public body makes a final determination to deny in whole or in part a request to inspect or receive a copy of a public record or portion of that public record, the requesting person may do either of the following:
 - (a) Appeal the denial to the head of the public body under section 10.
 - (b) Commence a civil action, under section 10.

(9) Notwithstanding any other provision of this act to the contrary, a public body that maintains a law enforcement records management system and stores public records for another public body that subscribes to the law enforcement records management system is not in possession of, retaining, or the custodian of, a public record stored on behalf of the subscribing public body. If the public body that maintains a law enforcement records management system receives a written request for a public record that is stored on behalf of a subscribing public body, the public body that maintains the law enforcement records management system shall, within 10 business days after receipt of the request, give written notice to the requesting person identifying the subscribing public body and stating that the requesting person shall submit the request to the subscribing public body. As used in this subsection, "law enforcement records management system" means a data storage system that may be used voluntarily by subscribers, including any subscribing public bodies, to share information and facilitate intergovernmental collaboration in the provision of law enforcement services.

(10) A person making a request under subsection (1) may stipulate that the public body's response under subsection (2) be electronically mailed, delivered by facsimile, or delivered by first-class mail. This subsection does not apply if the public body lacks the technological capability to provide an electronically mailed response.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2018, Act 105, Imd. Eff. Apr. 5, 2018;—Am. 2020, Act 36, Imd. Eff. Mar. 3, 2020.

Popular name: Act 442

Popular name: FOIA

15.236 FOIA coordinator.

Sec. 6. (1) A public body that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public body's FOIA coordinator. The FOIA coordinator shall be responsible for accepting and processing requests for the public body's public records under this act and shall be responsible for approving a denial under section 5(4) and (5). In a county not having an executive form of government, the chairperson of the county board of commissioners is designated the FOIA coordinator for that county.

(2) For all other public bodies, the chief administrative officer of the respective public body is designated the public body's FOIA coordinator.

(3) An FOIA coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial under section 5(4) and (5).

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Popular name: Act 442

Popular name: FOIA

15.240 Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as

contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.240a Fee in excess of amount permitted under procedures and guidelines or MCL 15.234.

Sec. 10a. (1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee

that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

History: Add. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.240b Failure to comply with act; civil fine.

Sec. 10b. If the court determines, in an action commenced under this act, that a public body willfully and intentionally failed to comply with this act or otherwise acted in bad faith, the court shall order the public body to pay, in addition to any other award or sanction, a civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence. In determining the amount of the civil fine, the court shall consider the budget of the public body and whether the public body has previously been assessed penalties for violations of this act. The civil fine shall be deposited in the general fund of the state treasury.

History: Add. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.241 Matters required to be published and made available by state agency; form of publications; effect of matter not published and made available; exception; action to compel compliance by state agency; order; attorneys' fees, costs, and disbursements; jurisdiction; definitions.

Sec. 11. (1) A state agency shall publish and make available to the public all of the following:

(a) Final orders or decisions in contested cases and the records on which they were made.

(b) Promulgated rules.

(c) Other written statements that implement or interpret laws, rules, or policy, including but not limited to guidelines, manuals, and forms with instructions, adopted or used by the agency in the discharge of its functions.

(2) Publications may be in electronic format or in pamphlet, loose-leaf, or other appropriate form in printed, mimeographed, or other written matter.

(3) Except to the extent that a person has actual and timely notice of the terms thereof, a person is not required to resort to, and shall not be adversely affected by, a matter required to be published and made available, if the matter is not so published and made available.

(4) This section does not apply to public records that are exempt from disclosure under section 13.

(5) A person may commence an action in the court of claims to compel a state agency to comply with this section. If the court determines that the state agency has failed to comply, the court shall order the state agency to comply and shall award reasonable attorneys' fees, costs, and disbursements to the person commencing the action. The court of claims has exclusive jurisdiction to issue the order.

(6) As used in this section, "state agency", "contested case", and "rule" mean "agency", "contested case", and "rule" as those terms are defined in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2020, Act 37, Imd. Eff. Mar. 3, 2020.

Popular name: Act 442

Popular name: FOIA

15.243 Exemptions from disclosure; public body as school district, intermediate school district, or public school academy; withholding of information required by law or in possession of executive office.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(i) Interfere with law enforcement proceedings.

(ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(iii) Constitute an unwarranted invasion of personal privacy.

(iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(v) Disclose law enforcement investigative techniques or procedures.

(vi) Endanger the life or physical safety of law enforcement personnel.

(vii) Disclose the identity of a party who, as described in subdivision (cc), proceeds anonymously in a civil action in which the party alleges that the party was the victim of sexual misconduct. For the purpose of securing the party's anonymity, that party or the party's designee may provide written notification of the civil action and the party's wish to remain anonymous to any law enforcement agency that has investigating records subject to this subparagraph, and the law enforcement agency shall retain a copy of that notification in its files with those investigating records.

(c) A public record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(i) The information is submitted upon a promise of confidentiality by the public body.

(ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until either of the following occurs:

(i) An agreement is entered into.

(ii) Three years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(l) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation, including protected health information, as defined in 45 CFR 160.103.

(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of natural resources may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(i) Identify or provide a means of identifying an informant.

(ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(iii) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(iv) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(v) Disclose operational instructions for law enforcement officers or agents.

(vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(ix) Disclose personnel records of law enforcement agencies.

(x) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(i) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(ii) The fact that an allegation was received by the department; the fact that the department did not issue a

complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the Social Security number of an individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, or the confidentiality, integrity, or availability of information systems, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and cybersecurity plans, assessments, or vulnerabilities, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(z) Information that would identify or provide a means of identifying a person that may, as a result of disclosure of the information, become a victim of a cybersecurity incident or that would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software.

(aa) Research data on road and attendant infrastructure collected, measured, recorded, processed, or disseminated by a public agency or private entity, or information about software or hardware created or used by the private entity for such purposes.

(bb) Records or information that would reveal the specific location or GPS coordinates of game, including, but not limited to, records or information of the specific location or GPS coordinates of game obtained by the department of natural resources during any restoration, management, or research project conducted under section 40501 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40501, or in connection with the expenditure of money under section 43553 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43553. As used in this subdivision, "game" means that term as defined in section 40103 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40103.

(cc) Information that would reveal the identity of a party who proceeds anonymously in a civil action in which the party alleges that the party was the victim of sexual misconduct. As used in this subdivision, "sexual misconduct" means the conduct described in section 90, 136, 145a, 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b, 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, regardless of whether the conduct resulted in a criminal conviction.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974. A public body that is a local or intermediate school district or a public school academy shall exempt from disclosure directory information, as defined by 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974, requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. A public body that is a local or intermediate school district or a public school academy may take steps to ensure that directory information disclosed under this subsection is not used, rented, or sold for the purpose of surveys, marketing, or solicitation. Before disclosing the directory information, a public body that is a local or intermediate school district or a public school academy may require the requestor to execute an affidavit stating that directory information provided under this subsection will not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

(3) This act does not authorize the withholding of information otherwise required by law to be made

available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1993, Act 82, Eff. Apr. 1, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2000, Act 88, Imd. Eff. May 1, 2000;—Am. 2001, Act 74, Imd. Eff. July 24, 2001;—Am. 2002, Act 130, Eff. May 1, 2002;—Am. 2002, Act 437, Eff. Aug. 1, 2002;—Am. 2006, Act 482, Imd. Eff. Dec. 22, 2006;—Am. 2018, Act 68, Eff. June 17, 2018;—Am. 2021, Act 33, Imd. Eff. June 24, 2021;—Am. 2023, Act 64, Imd. Eff. July 12, 2023.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of powers and duties of the state historic preservation office relating to the identification, certification, and preservation of historical sites from the Michigan state housing development authority to the Michigan strategic fund, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Popular name: Act 442

Popular name: FOIA

15.243a Salary records of employee or other official of institution of higher education, school district, intermediate school district, or community college available to public on request.

Sec. 13a. Notwithstanding section 13, an institution of higher education established under section 5, 6, or 7 of article 8 of the state constitution of 1963; a school district as defined in section 6 of Act No. 451 of the Public Acts of 1976, being section 380.6 of the Michigan Compiled Laws; an intermediate school district as defined in section 4 of Act No. 451 of the Public Acts of 1976, being section 380.4 of the Michigan Compiled Laws; or a community college established under Act No. 331 of the Public Acts of 1966, as amended, being sections 389.1 to 389.195 of the Michigan Compiled Laws shall upon request make available to the public the salary records of an employee or other official of the institution of higher education, school district, intermediate school district, or community college.

History: Add. 1979, Act 130, Imd. Eff. Oct. 26, 1979.

Popular name: Act 442

Popular name: FOIA

15.244 Separation of exempt and nonexempt material; design of public record; description of material exempted.

Sec. 14. (1) If a public record contains material which is not exempt under section 13, as well as material which is exempt from disclosure under section 13, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

(2) When designing a public record, a public body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.245 Repeal of MCL 24.221, 24.222, and 24.223.

Sec. 15. Sections 21, 22 and 23 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.221, 24.222 and 24.223 of the Michigan Compiled Laws, are repealed.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.246 Effective date.

Sec. 16. This act shall take effect 90 days after being signed by the governor.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA



Board:	City Commission
Agenda Date:	06-22-2026
Department:	Parks & Recreation Advisory Board
Presenter:	Mayor Thompson

Staff Report

Agenda Item Title:

Parks & Recreation Board Appointment – Kristyn Madalinski

Background:

Parks & Recreation Board member Jay Bostwick resigned May 9, 2026 (see email) creating a vacancy. Ms. Kristyn Madalinski has been recommended by the Parks & Recreation Advisory Board to fill the vacancy with a term expiration of January 1, 2027.

Fiscal Effect:

None

Supporting Documentation:

Resignation Letter
Application

Recommendation:

Motion to appoint Kristyn Madalinski to the Parks & Recreation Board with a term expiration of January 1, 2027.



Re: parks and recreation board

From Wendy Taavola <wtaavola@gladstonemi.gov>

Date Mon 05/11/2026 11:54 AM

To jay bostwick [REDACTED].com>

Cc Kim Berry <KBerry@gladstonemi.gov>; Rob Spreitzer <RSpreitzer@gladstonemi.gov>; Patricia West <pwest@gladstonemi.gov>

Jay,

I am so sorry to hear this. I appreciate your time and help on the board. Don't be a stranger to the department. Stop by and see us. I wish you all the best.

Wendy



Wendy Taavola, Director

Parks & Recreation Department

City of Gladstone

901 Montana Avenue

Gladstone, MI 49837

Cell: 906-420-4745

Email: wtaavola@gladstonemi.gov

Department Website: [Parks and Recreation | Gladstone, MI](#)

Recreation Management Platform: [Catalog - City of Gladstone](#)

From: jay bostwick [REDACTED].com>

Sent: Saturday, May 9, 2026 8:53 AM

To: Wendy Taavola <wtaavola@gladstonemi.gov>

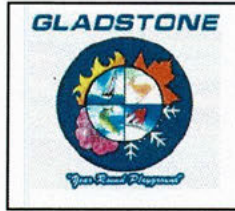
Subject: parks and recreation board

Wendy and board members,

I officially resign from the Parks and Recreation Board for personal reasons. I wish the best for the Parks and Recreation department and have enjoyed serving on the board. Lots of exciting things happening and I wish you luck on all your projects.

Take care,

Jay Bostwick



APPLICATION FORM

GLADSTONE CITY BOARDS AND COMMITTEES

Please use this form to express your interest in serving on a particular board/committee or commission. You may attach additional material if you wish. For information on vacancies and board/committee bylaws, please visit www.gladstonemi.org, call 906-428-2311 or e-mail kberry@gladstonemi.org. Please note that applications are kept on file for six months. The Gladstone City Commission makes appointments to City Boards at their regular meetings as vacancies occur. Completed applications are public documents and are subject to the Michigan Freedom of Information Act.

Eligibility Requirements:

Are you a registered voter in the City of Gladstone? *

Yes ☒ No ☐

Have you been a City resident for at least 12 months?

Yes ☒ No ☐

Are you currently in default to the City of Gladstone?

Yes ☐ No ☒

Are you related to any elected City Commissioner (including by marriage)?

Yes ☐ No ☒

*According to the City Charter, each member appointed by the City Commission shall be a qualified and registered elector of the city on such day and throughout the member's tenure of office.

Parks + Rec Board
Name of City Board or Committee: If applying for more than one board/committee, please list order of preference:

1) Parks + Rec Board

2) _____

3) _____

Applicant Name as it Appears on License: Kristyn Ann Madalinski

Driver's License Number: [REDACTED]

Home Address: 605 S. 13th St. Phone: 920-759-9037

Occupation: Church Office mgr Business: Grace Church

Business Address: 528 28th St., Gladstone Phone: 906-428-1331

E-Mail Address: Kristyn.madalinski@gmail.com

Are you currently serving or have you served on any City board or committee? If so, please list and give approximate dates.

No boards or committees

(over)

Education/Credentials: LPN + RN degree (1991+1993); former owner/operator of a holistic health clinic (MI+WI); office manager / Event coordinator @ Grace Church; organizational leadership experience
 Professional activities that relate to this board/committee: Employee of Parks & Rec Dept from 9-1-22 through 7-4-24.

Community activities that relate to this board/committee: Intentional engagement & assistance given to community members (i.e. Youth @ Skate Park; women / children; during snow emergencies...) offering financial & practical aid through Grace Church
 Why are you interested in serving on this board/committee? Passion to serve the Gladstone community in ways that enhance their quality of life & overall experience in it.

What talents or experience would you bring to the board/committee? Community service, organizing / leading people & events, administrative & planning experience, creative problem-solving, teaching many classes in a variety of fields (health, cooking, babysitting...)

Any other comments or information you wish to provide to the Mayor and City Commissioners?

My desire is to contribute in collaborative & practical ways, to learn from others who have served and offer fresh eyes & experience to the current board.

Are you involved in any personal, professional or business pursuit that would affect your ability to make fair and impartial recommendations as a member of a City advisory board or committee? Yes ☐ No ☒

Appointed members are expected to attend all meetings of the board/committee. A member who misses more than 3 consecutive meetings or 1/3 of all meetings will tender their resignation to the board/committee chair. Are you aware of the meeting schedule and are you available to attend regularly scheduled meetings? Yes ☒ No ☐

Kristyn Madalinski
 Signature

5-11-26
 Date

I certify that there are no misrepresentations, omissions or falsifications on this application and by signing this application I give consent to the City to conduct a background check to verify the information I have provided.

Please return this form with any attachments to:
 kberry@gladstonemi.org; fax to: 906-428-3122; or mail to: City Clerk's
 Office, Gladstone City Hall, Gladstone, MI 49837.

Thank you for your interest in serving as a volunteer board or committee member. Your willingness to serve is greatly appreciated.



Board:	City Commission
Agenda Date:	06-22-2026
Department:	Parks & Recreation Advisory Board
Presenter:	Mayor Thompson

Staff Report

Agenda Item Title:

Parks & Recreation Board Reappointments – Mr Roger Aho & Mr. Gary Stevenson

Background:

Both are willing to serve another term on the Gladstone Parks & Recreation Advisory Board. Their term expiration is January 1, 2029 for each. (Three-year terms)

Fiscal Effect:

None

Supporting Documentation:

None

Recommendation:

Motion to reappoint Mr. Roger Aho and Mr. Gary Stevenson to the Parks & Recreation Advisory Board with term expiration of January 1, 2029.