



November 7, 2017

PHILIP L. ELLISON, ESQ.
OUTSIDE LEGAL COUNSEL PLC
P.O. Box 107
Hemlock, MI 48626

Re: Thomas Lambert, et al v City of Harbor Beach
Case No.: 16-105456-CZ
Claim No.: 100GL1701510

Dear Mr. Ellison:

Enclosed please find copies of documents requested by Thomas Lambert on October 3, 2016, which are complete according to Ron Wruble, City Director or City of Harbor Beach and his attached Certification.

If you have any questions, please feel free to contact me.

Very truly yours,

Audrey Forbush

PLUNKETT COONEY

Direct Dial: (810) 342-7014

Email: aforbush@plunkettcooney.com

AJF/alm
Enclosures

Open.00560.70017.19300100-1

ATTORNEYS & COUNSELORS AT LAW

CERTIFICATION OF RON WRUBLE

I hereby certify that the attached documents as requested by Thomas Lambert on October 3, 2016 are complete to the best of my knowledge, information and belief.

Dated: 11-3-17

A handwritten signature in black ink, appearing to read 'Ron Wruble', written over a horizontal line.

Ron Wruble, City Director
City of Harbor Beach

Open.00560.70017.19255746-1

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Tuesday, October 04, 2016 10:00 AM
To: 'Gary Booms'
Subject: FW: Harbor Beach FOIA Request

Hi Gary,
Some more busy work we do not have time for.
Ron

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 03, 2016 5:52 PM
To: rwruble@harborbeach.com; lwoycehoski@harborbeach.com
Cc: MiOC Board
Subject: Harbor Beach FOIA Request

October 3rd, 2016

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, in relation to resolution # 2016-92.
- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, from August 1st, 2016 through today October 3rd, 2016, in relation to the City's policy on firearms carried by employees.
- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert
President
Michigan Open Carry, Inc.

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Monday, October 10, 2016 8:29 AM
To: 'Gary Booms'
Subject: FW: letter for Mayor Booms
Attachments: CPL - letter to Mayor Booms.docx

Good Morning again

From: Al Backus [mailto:albackus24@gmail.com]
Sent: Saturday, October 08, 2016 12:11 PM
To: rwruble@harborbeach.com
Subject: letter for Mayor Booms

Morning Ron,

Gary gave me his email and I managed to misplace it. Typical for me. I have attached a letter for him regarding Monday's meeting of the Administrative Committee. Feel free to read it and file if you need to. Nothing surprising it it. Hope you had a nice weekend.

Thanks for ALL that you have done on Brian's trail. Anne & I walked it last week - It's very well planned out and a nice stroll. I may have to take my mountain bike around it once in a while. Have a nice week.

Sincerely,

Al Backus
229 School Street
Harbor Beach, MI
48441

cell 989-780-3005

"The true soldier fights not because he hates what is in front of him, but because he loves what is behind him".....G. K. Chesterton

In honor of my son, PFC Brian J Backus, Army Combat Medic, **KIA** 6/18/2011 in Kandahar Province, Afghanistan
10th Mountain Division, 3rd Brigade, 2nd Battalion, 87th Infantry Regiment, Blackhawk Company


Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Wednesday, October 12, 2016 7:26 AM
To: 'Gary Booms'
Subject: FW: FOIA request
Attachments: 161011123340.PDF

Good Morning,

This is the response John sent to Mr. Lambert. I have most of the information already collected.
We will have more than the 5 hours allotted. It will be close. It will be interesting to see his response.
Ron

From: Ferris & Schwedler, P.C. [mailto:ferrisschwedler@gmail.com]
Sent: Tuesday, October 11, 2016 4:37 PM
To: tlambert@miopencarry.org; 'Ron Wruble'
Subject: FOIA request

Please see the attachment.

Kelli L. McGrath
Legal Assistant to John T. Ferris

Ferris & Schwedler, P.C.

237 E. Huron Avenue, Bad Axe, Michigan 48413
Telephone: (989) 269-9571
Fax: (989) 269-6484
ferrisschwedler@gmail.com

The transmitted documents are intended only for the use of the individual or entity named above, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the documents transmitted with this transmittal sheet is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone at the above number.

FERRIS & SCHWEDLER, P.C.

ATTORNEYS AND COUNSELORS AT LAW

237 EAST HURON AVENUE

BAD AXE, MICHIGAN 48413

(989) 269-9571

Fax: (989) 269-6484

JOHN T. FERRIS
JOHN D. SCHWEDLER
JULIENNE M. FERRIS

Mr. Tom Lambert:

Please be advised that I am the Attorney for the City of Harbor Beach and this letter is in response to your FOIA request on October 3, 2016. Thank you for inquiring into the cost of the City of Harbor Beach complying with your FOIA request. The City of Harbor Beach is allowed to charge a fee that doesn't exceed the hourly rate of the lowest-paid employee capable of performing the task.

Under MCLA 15.234:

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 shall 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 shall 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.

The Deputy Clerk for the City of Harbor Beach is compensated at an hourly rate of \$38.02 and the total cost of producing the FOIA request would be approximately \$190.10. The information that has been requested will take a total of five hours for city employees to compile. In certain circumstances the FOIA coordinator for the City of Harbor Beach may waive the fees associated with FOIA requests. For your request, the FOIA request is not considered to be

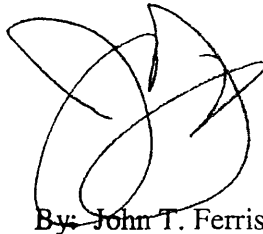
primarily benefitting the general public and that request to waive fees has been denied by the FOIA coordinator. This denial is related to a waiver of fees and not of your FOIA request.

Enclosed is a summary of our FOIA policy and a cost itemized fee sheet for your request. The City of Harbor Beach is able to produce the request after the established fee has been paid.

If you have any questions regarding the above, please feel free to call me.

Sincerely yours,

FERRIS & SCHWEDLER, P.C.

A handwritten signature in black ink, appearing to be "John T. Ferris", written over a circular stamp or seal.

By: John T. Ferris

JTF/hlf

CITY OF HARBOR BEACH

Public Summary of FOIA Procedures and Guidelines

**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.**

The people shall be informed so that they may fully participate in the democratic process.

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is the Written Public Summary of the City's FOIA Procedures and Guidelines relevant to the general public.

This is only a summary of the City's FOIA Procedures and Guidelines. For more details and information, copies of the City's FOIA Procedures and Guidelines are available at no charge at any City office and on the City's website: www.harborbeach.com.

1. How do I submit a FOIA request to the City?

- A request must sufficiently describe a public record so as to enable the City to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the City in providing a prompt response.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City may be submitted on the City's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.
 - Any verbal request will be documented by the City on the City's FOIA Request Form.
 - No specific form to submit a written request is required. However a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the City's website at www.harborbeach.com, and at City Hall.
- Written requests may be delivered to the City Hall in person or by mail at 766 State Street, Harbor Beach, MI 48441.
- Requests may be faxed to: (989) 479-3343. To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.
- Requests may be emailed to: lwoycehoski@harborbeach.com. To ensure a prompt response, email requests should contain the term "FOIA" or "FOIA Request" in the subject line.

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

- Within 5 business days after receiving a FOIA request the City will issue a response. If a request is received by fax or email, the request is deemed to have been received on the following business day. The City will respond to your request in one of the following ways:
 - - Grant the request,
 - Issue a written notice denying the request,
 - Grant the request in part and issue a written notice denying in part the request,
 - Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond, or
 - Issue a written notice indicating that the public record requested is available at no charge on the City's website
- If the request is granted, or granted in part, the City will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.
- If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the City will require a deposit before processing the request.

3. What are the City's deposit requirements?

- If the City has made a good faith calculation that the total fee for processing the request will exceed \$50.00, the City will require that you provide a deposit in the amount of 50% of the total estimated fee. When the City requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.
- If the City receives a request from a person who has not paid the City for copies of public records made in fulfillment of a previously granted written request, the City will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request 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's possession;
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by the City to provide the records;
 - Ninety (90) days have passed since the City 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; and
 - The City has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The City will not require the 100% 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;
 - The City is subsequently paid in full for all applicable prior written requests; or

- o Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to the City.

4. How does the City calculate FOIA processing fees?

The Michigan FOIA statute permits the City 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.
- 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.
- 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's website if you ask for the City 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's website if you ask for the City to make copies.
- The cost to mail or send a public record to a requestor.

Labor Costs

- 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 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. City 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)

A labor cost will not be charged for the 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. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in the particular instance. The City must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

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

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the City has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Paper Copies

- 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 will reflect the actual cost of reproduction.

Mailing Costs

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

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 Council may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

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

The City will discount the first \$20.00 of fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or

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

You are **not** eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the City twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is sworn statement. For your convenience, the City has provided an Affidavit of Indigence for the waiver of FOIA fees on the back of the City FOIA Request Form, which is available on the City's website: www.harborbeach.com.

6. May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is 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, may receive a \$20.00 discount if the request meets all of the following requirements in the Act:

- 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.

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

Appeal of a Denial of a Public Record

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the City Council by filing a written appeal of the denial with the office of the City Director.

The appeal must be in writing, specifically state the word "appeal," and identify the reason or reasons you are seeking a reversal of the denial. You may use the City FOIA Appeal Form (To Appeal a Denial of Records), which is available on the City's website: www.harborbeach.com.

Within 10 business days of receiving the appeal the City Council 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.

Whether or not you submitted an appeal of a denial to the City Council, you may file a civil action in Huron County Circuit Court within 180 days after the City's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs and

disbursements. If the court determines that the City acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.

Appeal of an Excess FOIA Processing Fee

If you believe that the fee charged by the City to process your FOIA request exceeds the amount permitted by state law, you must first appeal to the City Council by filing a written appeal for a fee reduction to the office of the City Director.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. You may use the City FOIA Appeal Form (To Appeal an Excess Fee), which is available at the City Hall and on the City's website: www.harborbeach.com.

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

- Waiving the fee;
- Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issue 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 Council will respond to the written appeal.

Within 45 days after receiving notice of the City Council's determination of the processing fee appeal, you may commence a civil action in Huron County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the City acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.

Freedom of Information Act Request Detailed Cost Itemization

Date: October 11, 2016 Prepared for Request No.: _____ Date Request Received: October 4, 2016

<p>The following costs are being charged in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the City's FOIA Policies and Guidelines.</p>			
<p>1. Labor Cost for Copying / Duplication</p> <p>This is the cost of labor directly associated with duplication of publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the Internet or other electronic means as stipulated by the requestor.</p> <p>This shall not be more than the hourly wage of the City's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments all partial time increments must be rounded down. <i>If the number of minutes is less than one increment, there is no charge.</i></p> <p>Hourly Wage Charged: \$38.02 Charge per increment: \$ 9.50 OR Hourly Wage with Fringe Benefit Cost: \$ _____ OR Multiply the hourly wage by the percentage multiplier: _____ % (up to 50% of the hourly wage) and add to the Charge per increment: \$ _____ hourly wage for a total per hour rate.</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>		<p>To figure the number of increments, take the number of minutes: _____, divide by 15 -minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x 8 =</p>	<p>1. Labor Cost</p> <p>\$ 76</p>
<p>2. Labor Cost to Locate:</p> <p>This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____</p> <p>_____</p> <p>_____</p> <p>The City will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Wage Charged: \$ 38.02 Charge per increment: \$ 9.50 OR Hourly Wage with Fringe Benefit Cost: \$ _____ OR Multiply the hourly wage by the percentage multiplier: _____ % (up to 50% of the hourly wage) and add to the Charge per increment: \$ _____ hourly wage for a total per hour rate.</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>		<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x 12 =</p>	<p>2. Labor Cost</p> <p>\$ 114</p>

3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a City employee. If contracted, use No. 3b instead).

The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____

This is the cost of labor of a City employee, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the City's lowest-paid employee capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. If the number of minutes is less than 15, there is no charge.

Hourly Wage Charged: \$ _____

Charge per increment: \$ _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____

OR

Multiply the hourly wage by the percentage multiplier: _____%
(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.

Charge per increment: \$ _____

☐ Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:

Number of increments

x _____ =

3a. Labor Cost

\$ _____

3b. Contracted Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a instead.)

The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically:

As this City does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a contractor (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to 6 times the state minimum hourly wage rate of _____ (currently \$8.15).

Name of contracted person or firm: _____

These costs will be estimated and charged in 15-minute time increments (must be 15-minutes or more); all partial time increments must be rounded down. If the number of minutes is less than 15, there is no charge.

Hourly Cost Charged: \$ _____

Charge per increment: \$ _____

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down to: _____ increments. Enter below:

Number of increments

x _____ =

3b. Labor Cost

\$ _____

4. Copying / Duplication Cost:

Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (for example, 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).

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 ½ x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 ½ x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- **Circle applicable:** Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

The cost of paper copies must be calculated as a total cost per sheet of paper. The fee cannot 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 City must utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

Number of
Sheets:

x _____ =
x _____ =

Costs:

\$ _____
\$ _____

x _____ =

\$ _____

No. of Items:

x _____ =

\$ _____

4. Total
Copy Cost

\$ 0

5. Mailing Cost:

The City will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The City *may* charge for the least expensive form of postal delivery confirmation.
- The City *cannot* charge more for expedited shipping or insurance unless specifically requested by the requestor.*

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp
\$ _____ per pound
\$ _____ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

☐ * Requestor has requested expedited shipping or insurance

Number of
Envelopes or
Packages:

x _____ =

Costs:

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

5. Total
Mailing Cost

\$ 0

6a. Copying/Duplicating Cost for Records Already on City's 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 non-paper physical digital media, the City will provide the public records in the specified format and may charge copying costs to provide those copies.

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 ½ x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 ½ x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

☐ Requestor has stipulated that some / all of the requested records that are already available on the City's website be provided in a paper or non-paper physical digital medium.

Number of
Sheets:

x _____ =
x _____ =

Costs:

\$ _____
\$ _____

x _____ =

\$ _____

No. of Items:

x _____ =

\$ _____

6a. Web
Copy Cost

\$ 0

6b. Labor Cost for Copying/Duplicating Records Already on City's Website:

This shall not be more than the hourly wage of the City's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in 15-minute time increments (i.e.: 15-minutes or more); all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____

Charge per increment: \$ _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____

OR

Multiply the hourly wage by the percentage multiplier: _____ %
and add to the hourly wage for a total per hour rate.

Charge per increment: \$ _____

The City may use a fringe benefit multiplier greater than the 50% limitation, not to exceed the actual costs of providing the information in the specified format.

☐ Overtime rate charged as stipulated by Requestor

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:

Number of
increments

x _____ =

6b. Web
Labor Cost

\$ 0

6c. Mailing Cost for Records Already on City's Website:

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp / per pound / per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

☐ * Requestor has requested expedited shipping or insurance

Number:

x _____ =

Costs:

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

6c. Web
Mailing Cost

\$ 0

Subtotal Fees Before Waivers, Discounts or Deposits:☒ Cost estimate☐ Bill**Estimated Time Frame to Provide Records:**

_____ (days or date)

The time frame estimate is nonbinding upon the City, but the City is providing the estimate in good faith. Providing an estimated time frame does not relieve the City from any of the other requirements of this act.

1. Labor Cost for Copying: \$ 76.00
2. Labor Cost to Locate: \$ 114.00
3a. Labor Cost to Redact: \$ _____
3b. Contract Labor Cost to Redact: \$ _____
4. Copying/Duplication Cost: \$ _____
5. Mailing Cost: \$ _____
6a. Copying/Duplication of Records on Website: \$ _____
6b. Labor Cost for Copying Records on Website: \$ _____
6c. Mailing Costs for Records on Website: \$ _____

Fees Subtotal: \$ 190.00**Waiver: Public Interest**

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 City 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.

☐ All fees are waived **OR** ☐ All fees are reduced by: _____ %**Subtotal Fees After Waiver:** \$ _____**Discount: Indigence**

A public record search **must** be made and a copy of a public record **must** be furnished **without charge** for the **first \$20.00 of the fee** for each request by an individual who is entitled to information under this act and who:

- 1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, **OR**
2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

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 from the same public body twice during that calendar year, **OR**

(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.

☐ Eligible for Indigence Discount**Subtotal Fees After Discount (subtract \$20):** \$ _____**Discount: Nonprofit Organization**

A public record search **must** be made and a copy of a public record **must** be furnished **without charge** for the **first \$20.00 of the fee** for each request by 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 and the federal Protection and Advocacy for Individuals with Mental Illness Act, 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 Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.

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

☐ Eligible for Nonprofit Discount**Subtotal Fees After Discount (subtract \$20):** \$ _____

<p>Deposit: Good Faith The City may require a good-faith deposit in either its initial response or a subsequent response 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. The deposit cannot exceed 1/2 of the total estimated fee.</p> <p style="text-align: right;">Percent of Deposit: 50%</p>	<p>Date Paid: _____</p>	<p>Deposit Amount Required:</p> <p>\$ 95.00</p>
<p>Deposit: Increased Deposit Due to Previous FOIA Fees Not Paid In Full After a City has granted and fulfilled a written request from an individual under this act, if the City has not been paid in full the total amount of fees for the copies of public records that the City made available to the individual as a result of that written request, the City may require an increased estimated fee 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:</p> <ul style="list-style-type: none"> (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 City's possession. (c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request. (d) Ninety (90) days have passed since the City 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 City. (f) The City calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit. <p>A City can no longer require an increased estimated fee deposit from an individual if ANY of the following apply:</p> <ul style="list-style-type: none"> (a) The individual is able to show proof of prior payment in full to the City, OR (b) The City is subsequently paid in full for the applicable prior written request, OR (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the City. 	<p>Date Paid: _____</p>	<p>Percent Deposit Required:</p> <p>_____ %</p> <p>Deposit Required:</p> <p>\$ _____</p>
<p>Late Response Labor Costs Reduction If the City does not respond to a written request in a timely manner as required under MCL 15.235(2), the City must do the following:</p> <ul style="list-style-type: none"> (a) Reduce the charges for labor costs otherwise permitted by 5% for each day the City exceeds the time permitted for a response to the request, with a maximum 50% reduction, if EITHER of the following applies: <ul style="list-style-type: none"> (i) The late response was willful and intentional, OR (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. 	<p>Number of Days Over Required Response Time: _____</p> <p>Multiply by 5%</p> <p>= Total Percent Reduction: _____</p>	<p>Total Labor Costs</p> <p>\$ _____</p> <p>Minus Reduction</p> <p>\$ _____</p> <p>= Reduced Total Labor Costs</p> <p>\$ _____</p>
<p>The Public Summary of the City's FOIA Procedures and Guidelines is available free of charge from: Website: www.harborbeachmi.org Email: _____ Phone: 989.479.3363</p> <p>Address: 766 State Street, Harbor Beach, Michigan, 48441</p> <p>Request Will Be Processed, But Balance Must Be Paid Before Copies May Be Picked Up, Delivered or Mailed</p>	<p>Date Paid: _____</p>	<p>Total Balance Due:</p> <p>\$ 190.00</p>

Ron Wruble

From: Gary Booms [gary.s.booms@gmail.com]
Sent: Monday, October 03, 2016 12:56 PM
To: Ron Wruble
Subject: Fwd: Employee Firearms Policy

----- Forwarded message -----

From: Gary Booms <gary.s.booms@gmail.com>
Date: Mon, Oct 3, 2016 at 12:55 PM
Subject: Re: Employee Firearms Policy
To: Casey Armitage <cmodena13@gmail.com>
Cc: Al kleinknecht <akdrives@yahoo.com>, Robert J Swartz <saswartz@hotmail.com>, Sam Capling <samcapling@gmail.com>, Matt Woodke <woodkebuilders@yahoo.com>

Casey,

This issue is not on tonight's agenda to be discussed.

You are more than welcome to speak during citizen comment again if you wish.

Please provide any information you have to City Director Ron Wruble and then we can review it at our next Administration Committee meeting.

Let me know if you have any questions or concerns.

Thanks,
Gary

On Mon, Oct 3, 2016 at 12:10 PM, Casey Armitage <cmodena13@gmail.com> wrote:

Good afternoon Gentlemen of the Council,

Per your request I am providing the Jackson County Firearms Policy. I do not think it is necessary to implement this same policy here. The municipalities I have contacted in Huron County do not have an Employee Firearms Policy and are members of the same if not like liability insurance. All that is needed is to remove the Employee Concealed and Open Weapons Policy from the City of Harbor Beach Personnel Manual. No other changes will need to occur.

The following Municipalities are members of the MML insurance pool and have no employee firearms policy:

Port Austin, MI
Caseville, MI
Cass City, MI
Elkton, MI
Sebewaing, MI
Bad Axe, MI
Pigeon, MI

I look forward to the council meeting tonight.

Thank you,

Casey Armitage

Ron Wruble

From: Gary Booms [gary.s.booms@gmail.com]
Sent: Monday, October 03, 2016 2:21 PM
To: Ron Wruble; Robert J Swartz; Matt Woodke; Al kleinknecht; Sam Capling
Subject: Fwd: Employee Firearms Policy

----- Forwarded message -----

From: Gary Booms <gary.s.booms@gmail.com>
Date: Mon, Oct 3, 2016 at 2:19 PM
Subject: Re: Employee Firearms Policy
To: Casey Armitage <cmodena13@gmail.com>

This item will not be added to tonight's agenda for discussion by the Council. It can be added to a future committee meeting. Committee meetings are open to the public. You can speak during citizen comment if you wish at any committee or Council meeting.

Please make any requests for information from the City in writing to City Director Ron Wruble and copy me please. Some information may require you to write a FOIA request letter.

Please provide any information you have supporting your stance in writing to City Director Ron Wruble.

Citizen comment is not a question and answer session. It is just that, citizen comment. Myself and the Council offer answers when we have the information at hand and/or are comfortable with answering the question at that time.

We have a system in place where issues such as this need to go through committee prior to going to Council. Most of the work happens at the committee level before it is presented to the entire Council.

Let me know if you have anymore questions or concerns.

Thanks,
Gary

On Mon, Oct 3, 2016 at 1:25 PM, Casey Armitage <cmodena13@gmail.com> wrote:

Mayor Booms,,

At the last two City Council Meetings amendments have been made to the agenda to include further items. I would like to ask that an amendment to tonight's agenda be considered to include time to speak about the Concealed and Open Weapons Policy.

I am happy to speak during citizens comment, however it seems I am wasting my time. The council continues to not address the issue. My speaking with no response or answers from the council is not productive.

The only written information that has been requested by the council and pertains directly to allowing employees to carry a firearm while on duty is the Jackson County Firearms Policy that I have sent to you and the other council members.

I was sick last Monday when committee meetings were held, as well as unsure on the time to appropriately attend.

I am requesting a publicity open discussion between the council and the residents.

The council, yourself included, has repeatedly requested information from me. What such information are you proposing I provide? The council voted in new policy based on unfactual information regarding our insurance rates and status. It is now time you correct your mistake and remove the policy to allow our city employees to lawfully carry their firearm while on duty.

I have requested proof that the liability insurance will indeed see an increase in rates or in fact be "dropped" from coverage. Nothing has been provided.

I have requested factual information from the council to support your opposition to employee carry. Nothing has been provided.

There are no statistics to show public employee carry is a risk. No incidents have been reported.

I have requested information regarding the Employee Manual, it's timeline, and adoption. I have received nothing to date.

Thank you,

Casey Armitage

Ron Wruble

From: Gary Booms [gary.s.booms@gmail.com]
Sent: Monday, October 03, 2016 2:20 PM
To: Ron Wruble; Al kleinknecht; Matt Woodke; Sam Capling; Robert J Swartz
Subject: Fwd: Employee Firearms Policy

----- Forwarded message -----

From: Casey Armitage <cmodena13@gmail.com>
Date: Mon, Oct 3, 2016 at 1:25 PM
Subject: Re: Employee Firearms Policy
To: Gary Booms <gary.s.booms@gmail.com>

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Sent: Monday, October 03, 2016 12:55 PM
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From: Casey Armitage <cmodena13@gmail.com>
Date: Mon, Oct 3, 2016 at 12:10 PM
Subject: Employee Firearms Policy
To: gary.s.booms@gmail.com, akdrives@yahoo.com, saswartz@hotmail.com, samcapling@gmail.com,
woodkebuilders@yahoo.com

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The following Municipalities are members of the MML insurance pool and have no employee firearms policy:

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Caseville, MI
Cass City, MI
Elkton, MI
Sebewaing, MI
Bad Axe, MI
Pigeon, MI

I look forward to the council meeting tonight.

Thank you,

Casey Armitage

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Saturday, September 17, 2016 8:55 AM
To: 'Al kleinknecht'
Cc: 'Gary Booms'
Subject: RE: Thoughts

Good Morning,

My daughter Stephanie and Daughter-In-Law Deanna both work in the HR field Stephanie for the Charlotte Hornets and Deanna for Gemini. They both told me that they know of no other business or organization except law enforcement or a security firm

that allows weapons in the work place. I am sure there are some somewhere, but they are few and far between. Some organization will fire you if you even bring a gun on their property.

Ron

From: Al kleinknecht [mailto:akdrives@yahoo.com]
Sent: Friday, September 16, 2016 8:16 AM
To: Gary S. Booms; Ron Wruble
Subject: Thoughts

Morning

I got thinking, we were elected to more or less are running a business when we were elected to council. You are the CEO of a 4 million dollar a year business. (Leslie was going to get me our yearly budget info. along with checking with Jeff on Sensient's gun policy)

The council's best interest is to run the business and keep it solvent. (one bad shooting from a person who has not had police training or who was not hired to be a police officer for the city could put the city in a bad position)

Gemini group, Dow, Sensient, probably DTE, the county employees plus many more that I haven't checked with do not allow weapons in the work place

Why is our business any different then theirs?

If you get a chance ask a few companies that you may know if they allow guns..either concealed or Open carry...I bet the majority of them don't.

With this.....we are not infringing on anyone rights to own a gun or carry a weapon.
We are running a business that does not allow weapons by it's employees.

Al

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Friday, September 16, 2016 8:16 AM
To: Gary S. Booms; Ron Wruble
Subject: Thoughts

Morning

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With this.....we are not infringing on anyone rights to own a gun or carry a weapon.
We are running a business that does not allow weapons by it's employees.

Al

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Monday, October 10, 2016 8:50 AM
To: Ron Wruble; Les Woycehoski; Gary S. Booms
Subject: Question answered by tonight !
Attachments: LM_2013_MI_Library_Laws_Handbook_423082_7 (1).pdf

Attached is where the info came from...don't print it..it is 400 + pages.

A1

123.1101 Definitions.

123.1102 Regulation of pistols or other firearms.

123.1103 Permissible prohibitions or regulation.

123.1104 Prohibiting discharge of pistol or other firearm.

123.1105 Conditional effective date.

Sec. 5. **This act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law: *Have these laws been passed?***

(a) House Bill No. 6009.

(b) House Bill No. 6010. History: 1990, Act 319, Eff. Mar. 28, 1991. Compiler's Notes: House Bill No. 6009, referred to in this section, was filed with the Secretary of State December 20, 1990, and became P.A. 1990, No. 320, Eff. Mar. 28, 1991. House Bill No. 6010, also referred to in this section, was filed with the Secretary of State December 20, 1990, and became P.A. 1990, No. 321, Eff. Mar. 28, 1991.

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Monday, October 10, 2016 11:10 AM
To: Ron Wruble
Subject: Re: Firearms on the job

On Monday, October 10, 2016 10:23 AM, Ron Wruble <rwuble@harborbeach.com> wrote:

Good Morning John,
Please see attachment. I would like you to send me a letter citing this law and any other that pertains to an employer's rights in regard to firearms on the job.
Please call me first, it will be easier for me to communicate what the Council is looking for.
Thank you,

Ron Wruble
City Director
City of Harbor Beach
989-551-3393
rwuble@harborbeach.com

Ron Wruble

From: Al Kleinknecht [akdrives@yahoo.com]
Sent: Friday, September 09, 2016 12:07 PM
To: Gary S. Booms; Ron Wruble
Subject: Your friend has shared a Huron Daily Tribune link with you

Crossing guard told to put away her pistol <http://www.michigansthumb.com/news/article/Click-here-9211273.php?cmpid=email-tablet>

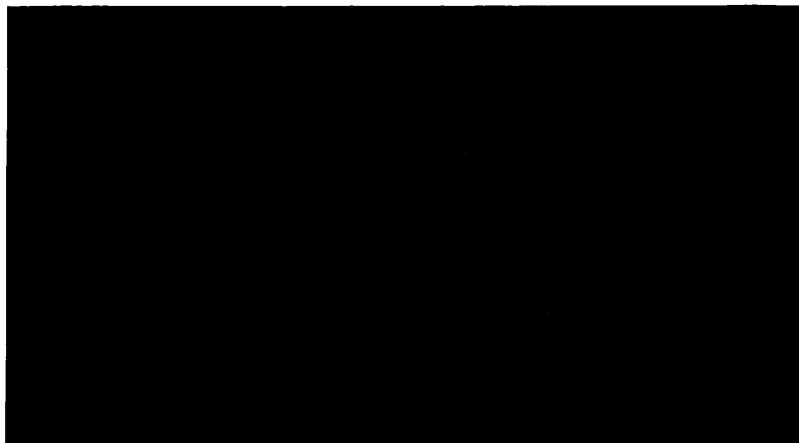
This message was sent via michigansthumb.com.

Sent from my iPhone

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Monday, September 12, 2016 11:12 PM
To: Gary S. Booms; Ron Wruble
Subject: This is not over yet

City Worker Fights for Her Right to Carry Concealed - TheFireArmGuy



**City Worker Fights for Her Right to
Carry Concealed - TheFireArmGuy**

City worker. Casey Armitage, is a crossing guard in Harbor
Beach Michigan. Being a supporter of the 2nd Amendmen...

I think our 19th council meeting will have a few extra visitors...

We need to have something in writing from John Ferris to assure us that we are not breaking any laws or will be set up for a law suit.

It looks like is may head that way and will get a lot of press.

My views on a city employee (any of them)carrying a weapon have not changed nor will they.
Our responsibility is to the majority of the people of Harbor Beach.

We will need answers and need to be prepared for this and do our best to prevent any potential law suits.

Al

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Tuesday, September 13, 2016 7:55 PM
To: Gary S. Booms; Ron Wruble
Subject: Questions

Hi
I was talking to Tom Youats today and ask if his city allows guns.
He stated you have to be very careful with that topic.
He suggested calling Rick Fanning of Keller Thoma Law Firm and use his name.
313-965-8931
Sounds like we better know what we are doing.

AL

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Wednesday, September 14, 2016 3:14 PM
To: Ron Wruble; Gary S. Booms
Subject: Fw: Morning Buddy

On Wednesday, September 14, 2016 2:41 PM, Al kleinknecht <akdrives@yahoo.com> wrote:

Thank you Kim

Right now our problem is not open carry as far as in a city establishment.

Our problem right now is we have a crossing guard (employed by the city) who has been carrying a concealed weapon for at least a year.

We had a policy in our personal manual stating that concealed weapons are not permitted to be carried by a city employee.

There was a failure to communicate that last year to this person so that is on us, and she is not being targeted for that.

Under MI law the way I understand it concealed weapons are not permitted on school property period. So at present she wants to open carry a hand gun while working as a crossing guard.

About 2 week ago we (the council) made a motion and it passed to also include no open carry by a city employee.

What I am looking for is something that might indicate that we are ok in our actions or if not, proof that we should rescind the open carry policy to stay with in the law.

About the last thing in the world we need to do is open the city up for any legal action against the NRA or similar organizations.

Question in a nut shell:

Are we on good legal ground banning weapons from city employees use / carry during working hours?

Thank you

Al Kleinknecht

City of Harbor Beach

On Wednesday, September 14, 2016 11:18 AM, Kim Cekola <kcekola@mml.org> wrote:

Hi Al,

I am responding to your inquiry regarding guns at city hall/buildings. The League can't provide legal advice, but I can tell you that this is a litigated area, with the most recent being a case regarding the Lansing District Library. The city of Ferndale was involved in a case in 2003, and the court found that the city could not regulate guns in municipal buildings because state law pre-empted this area. I have attached an article from our magazine on Open Carry, and also a summary of the Ferndale case. You will want to run this by your municipal attorney.

Let me know if you have any further questions.

Sincerely,
Kim Cekola

Kim Cekola
Research Specialist/Editor
Legal Affairs Department
Ph: 734-669-6321 | Fax: 734-663-4496
1675 Green Road, Ann Arbor MI 48105
www.mml.org



The information contained in this email is provided solely for general informational purposes and should not be interpreted as legal advice. The League encourages municipal officials to consult with their legal counsel on questions of law.

From: Matt Bach
Sent: Wednesday, September 14, 2016 10:06 AM
To: Kim Cekola <kcekola@mml.org>
Subject: Fwd: Morning Buddy

Inquiry question below from Harbor Beach. Can you respond to him for me Kim?

Sent from my iPhone

Begin forwarded message:

From: Al kleinknecht <akdrives@yahoo.com>
Date: September 14, 2016 at 9:29:34 AM EDT
To: Matt Bach <mbach@mml.org>
Subject: Morning Buddy
Reply-To: Al kleinknecht <akdrives@yahoo.com>

Morning Matt
Well, you getting ready for fun in the sun at the Island?
I won't be there but will look forward to the Photos you take.

Question?
Who do I contact for legal information concerning guns in the work place?

We have a little issue going on that I could use a little help on.

Thanks

Al Kleinknecht
City of Harbor Beach

2. Plaintiff Gallagher. Gallagher claimed that she was handcuffed for one minute while photographs were taken of her bruises. Gallagher could not, however, identify which officer handcuffed her. Gallagher was required to show not only that there was a seizure but also that it was unreasonable under the fourth amendment. Since she was unable to prove which defendant had violated her rights, summary judgment was appropriate.

C. Malicious prosecution claim

The court then reviewed the status of a claim for federal malicious prosecution under the Fourth Amendment. The court stated that although the elements of a federal malicious prosecution claim had not been set forth in the Sixth Circuit, it was clear that a plaintiff must show, at a minimum, "that there was no probable cause to justify [his] arrest and prosecution" because Thacker's arrest and prosecution were justified by probable cause, Thacker could not demonstrate any seizure in violation of the Fourth Amendment.

D. Qualified immunity

The court reviewed the Sixth Circuit standard for qualified immunity which shields government officials performing discretionary functions from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable officer would have known. The court followed the standard in *Ewolski* explaining that a court must first determine whether the facts viewed in the light most favorable to the plaintiffs would show that a constitutional violation occurred and if so then whether the violation involved clearly established constitutional rights which a reasonable person would have known. The court concluded that no constitutional violations occurred and that even if they had, the defendants would be entitled to qualified immunity because they did not violate any clearly established rights of which a reasonable officer would have known. The court noted that we cannot find that it was clearly established that entering a home without a warrant to secure the safety of paramedics under the circumstances presented in this case would violate the Fourth Amendment." Furthermore, since the question of probable cause for the arrest was a close one, reasonable officials could disagree as to whether probable cause existed.

Finally, the court reviewed the state law claims for malicious prosecution and false arrest. *Thacker v City of Columbus*, No. 01-4097 (April 30, 2003.)

Michigan Court of Appeals

Preemption--Possession of weapons--Municipal buildings

On November 12, 2001, pursuant to its general police power, the city of Ferndale enacted an ordinance which prohibited the possession or concealment of weapons in all buildings located in Ferndale that are owned and/or controlled by the city. The ordinance contains certain exemptions including those for law enforcement officers, auxiliary and retired police officers. The specific buildings subject to the ordinance were identified in the ordinance.

Plaintiffs, who included the Michigan Coalition for Responsible Gun Owners (MCRGO) and three individuals, filed a complaint seeking injunctive and declaratory relief and alleging that the ordinance is unconstitutional under the Michigan Constitution and is preempted by state statutory law including MCL 28.421 et seq. and 123.1101 et seq. The city maintained that the ordinance was a valid exercise of the city's police power pursuant to the Michigan Constitution, the Home Rule City Act and the Ferndale Charter.

The city filed its motion for summary disposition. Plaintiffs argued that the ordinance was in direct conflict with the state statutory scheme and that the ordinance was preempted by the state statutory scheme for multiple reasons. The city argued that the state law does not preempt the ordinance; rather the ordinance was merely an extension of the prohibition posed by the state and does not conflict with the Michigan statutes.

The trial court found that the Ferndale ordinance was not preempted and that the ordinance was merely an extension of the prohibition already imposed by state law.

The court of appeals reversed and began its analysis by stating that cities have the authority to adopt resolutions and ordinances that have the force of the law relating to their own concerns, property, and government by virtue of Const 1963, art 7, § 22. The court also referred to art 7, § 34 which indicates that provisions of the Constitution and law concerning counties, townships, cities and villages, shall be liberally construed in their favor. The court further cited *Mack v Detroit*, 467 Mich 186, 194: "Although art 7, § 22 grants broad authority to municipalities it clearly subjects their authority to constitutional and statutory limitations."

The court then analyzed the provisions of the Home Rule City Act noting specifically that the act provides that "No provisions of any city charter shall

ordinance is preempted by state law if 1) the statute completely occupies the field that the ordinance attempts to regulate or 2) the ordinance directly conflicts with a state statute.

With respect to the standard of whether a municipal ordinance completely occupies a field of regulation the court cited *People v Llewellyn*, 401 Mich 314. In that decision, the Michigan Supreme Court set out four guidelines: 1. Where the state law expressly provides that the state's authority to regulate in a specified area of the laws to be exclusive, municipal regulation is preempted. 2. Preemption of a field of regulation may be implied upon examination of legislative history. 3. The pervasiveness of the state regulatory scheme may support a finding of preemption, which, although not generally sufficient by itself to infer preemption, may be considered as evidence of preemption. 4. The nature of the regulated subject matter may demand exclusive state regulation to achieve the uniformity necessary to serve the states' purpose or interest. It was noted that as to the fourth guideline, if the nature of the regulated subject matter calls for regulation adapted to local conditions, and the local regulation does not interfere with the state regulatory scheme, supplementary local regulation has generally been upheld. However, if the nature of the subject matter regulated called for a uniform state regulatory scheme, supplementary local regulation has been held preempted.

The court of appeals then examined the relevant state firearms statutes. In 1990 the state legislature enacted MCL 123.1101 et seq. "to prohibit local units of government from imposing certain restrictions on the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunitions for pistols or other firearms, or components of pistols or other firearms." The court also noted that in 2000, the legislature enacted amendments to MCL 28.421 in part to regulate the selling, purchasing, possessing and carrying of certain firearms.

MCL 123.1102 mandates that a local unit of government shall not adopt an ordinance with respect to the possession of pistols or other firearms "except as otherwise provided by federal law or *law of this state*." (Emphasis supplied). "The effect is to occupy

nance or regulation concerning the possession and transportation of pistols or other firearms such as the Ferndale ordinance." The city argued that the list of premises on which the carrying of a concealed pistol is prohibited (MCL 28.425o(1)) was not all-inclusive and rather that the inclusion of the language "and except as otherwise provided by law" was indicative of legislative intent to allow other exceptions to be established.

The Michigan Court of Appeals disagreed, holding that these two statutes in question are in *pari materia* and must be read together as one law. The court of appeals concluded that the legislature intended to maintain the prohibitions placed on local units of government as contained in §1102. The court held that the ordinance was preempted by state law.

The court did not reach the issue of whether the Ferndale ordinance was in direct conflict with MCL 28.421. *Michigan Coalition for Responsible Gun Owners v City of Ferndale*, No. 242237 (April 29, 2003).

Procedural due process--Ordinance-- Abatement of nuisance

Plaintiff sued the city of Sterling Heights and an independent tree removal service for trespass and inverse condemnation after a diseased tree was removed from his property. The defendants claimed that the actions were lawful because the tree was a nuisance and because the city complied with its ordinance procedures for abating a nuisance including the procedures for giving appropriate notice to the property owner. Notices were sent to the plaintiff's niece with no response. The tree was ultimately removed. The city assessed costs to the plaintiff who then sued the city and the tree removal service. The jury found for the defendants; the Michigan Court of Appeals, in an unpublished decision, affirmed.

Toussaint is the legal owner of a parcel of property in Sterling Heights. His niece, however, was listed as the owner on the city's property tax assessment rolls. A maple tree which was located on plaintiff's property was rotting and infested with insects. The city determined that the tree was a hazard and violated a city ordinance requiring property owners to remove trees that are infected if necessary for the protection of the public safety, health and welfare. The

**GETTING YOUR
CCW PERMIT**

A LIFE-CHANGING CHOICE

**HOW TO CHOOSE
THE RIGHT GUN**

IT'S THE ONE YOU'LL CARRY EVERY DAY

**CONCEALED
CARRY LAWS**

WHAT YOU MUST KNOW

CONCEALED CARRY

GUIDE

A PUBLICATION OF THE UNITED STATES CONCEALED CARRY ASSOCIATION

DEFEND

YOURSELF

WHEN THE SYSTEM CAN'T OR WON'T



THE ULTIMATE RESPONSIBILITY OF PROTECTING THE ONES YOU LOVE

CONCEALED CARRY

WHO IS **TIM SCHMIDT**?

You may know me as the President and Founder of the United States Concealed Carry Association (www.USConcealedCarry.com)—an organization that teaches and empowers its tens of thousands of members to confidently and responsibly protect the ones they love.

Above all, though, I am a husband and father. The love I have for my wife and my children, and the responsibility and duty I have to keep them safe, have taken me many places in life. In addition to founding the USCCA and growing it to its incredible size, I hold a black belt in Tae Kwon Do, and I've studied personal security and home defense from some of the greatest minds in the country. The reports, how-to guides, newsletters, and magazine I publish feature authors of the highest esteem in the law enforcement, military, and civilian realms of personal protection, family security, and armed self-defense.

The bottom line is that I **know** self-defense. I understand the mind of the criminal, and I understand what it takes to defeat him—both mentally and physically. And I understand the mind of the concerned, prepared citizen, because **that is who I am.**



DISCLAIMER

This publication is designed to provide the authors' beliefs and opinions in regard to the subject matter covered, with the understanding that neither the authors nor the publisher are engaged in rendering professional psychological, legal, political, or firearm instructional services through the dissemination of this publication.

If you need expert assistance, instruction, or counseling, you should seek the services of a competent professional.

The USCCA and Delta Defense, LLC are not responsible for mishaps of any kind which may occur from use of published firearms information, equipment recommendations, tactics and training advice, or recommendations by staff or contributing writers. Carrying a concealed weapon can be very dangerous if you are not well trained and familiar with the weapon you carry; therefore, you should consult with an attorney before making the decision to purchase and carry a weapon. It is your responsibility as an armed citizen to decide how much training you need.

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THERE ARE TWO KINDS OF PEOPLE... WHICH ONE ARE YOU?

There are really two kinds of people in this world. The first kind is the person that is always looking for someone else to take care of him. You know what I'm talking about. Nowadays, it's all we hear on the news. These people want the government to provide for them, and they want the police to protect them and provide their safety. (Some call these people sheep or sheeple!)

Then there's the *other* kind of person, the person who truly believes in personal responsibility. I can remember a saying my Dad told me over and over as I grew up. He'd say, "Tim, you must always remember ... **If it is to be, it's up to me.**" As a kid in my early teenage years I can remember thinking to myself, "Yeah Dad, I got it. You've told me this a thousand times."

But you know what? That phrase, along with a whole bunch of other brilliant wisdom from my Dad, had a huge impact on me. Yep, my Dad did an amazing job instilling in me that there is only ONE person responsible for my happiness, safety, and security. And that one person is ... **ME!**

Now, if you're still reading this, then I'll bet you can relate to this concept of personal responsibility. Heck, you and I probably have a lot more in common. So you'll probably understand how this wisdom revealed a huge frustration in my life.

WOULD THIS FRUSTRATE YOU?

You know, everyone has certain defining moments in their lives. Times when normal, everyday events end up having a life-long impact. I'll never forget those first couple of days after my first son was born. My mind was flooded with all kinds of new thoughts and feelings.

There were feelings of joy, amazement, and wonder; feelings of gratitude and responsibility—and feelings of fear and frustration. What was I afraid of? I was completely overwhelmed by the idea that I was now responsible in every way for this new little life. Not only did I need to provide for my new son, it was also my duty to protect him (and my wife) from the evil that will always exist in our world. *It hit me like a ton of bricks!*

You know, I think everyone has their own self-defense revelation experience. For some it's a friend who was attacked or mugged. For others it's witnessing a robbery. And for others, it's surviving a horrific experience that opened their eyes to the need to be able to defend themselves. You see, I got off easy. For some reason, my internal personal defense switch was tripped by the simple circumstance of becoming a new father. I can only hope you'll be as lucky as I was! I found myself becoming very protective, thinking a lot about what I would do in different situations. I started learning about self-defense. I started buying books, magazines, and whatever I could get my hands on. I bought books about guns! Growing up with my Dad, we never went hunting because Dad wasn't a hunter. But, he *did* like guns and there were

always guns in our house. (I still remember the first time Dad let me shoot his Smith & Wesson 5-inch .357 Magnum revolver!) So my desire to start learning about guns and how I could use them to protect my family was a natural thing to do.

And that's when it happened.

I read an article that changed my life. The article was "The Constitutional Right and Social Obligation to Carry a Gun" by a guy named Robert Boatman. (Mr. Boatman has since passed away, but I did have a chance to meet him face to face and tell him how much of an impact he had on me and my family!) This article opened my eyes to the idea of carrying a gun with me wherever I went. It made perfect sense to me and I was astonished how Mr. Boatman presented it as a social obligation. I was hooked. I needed to learn as fast as possible exactly how to do this.

7-8-9-5





WHY CARRY A CONCEALED WEAPON?

Honest citizens carry concealed weapons because bad things can happen to good people—anywhere, anytime.

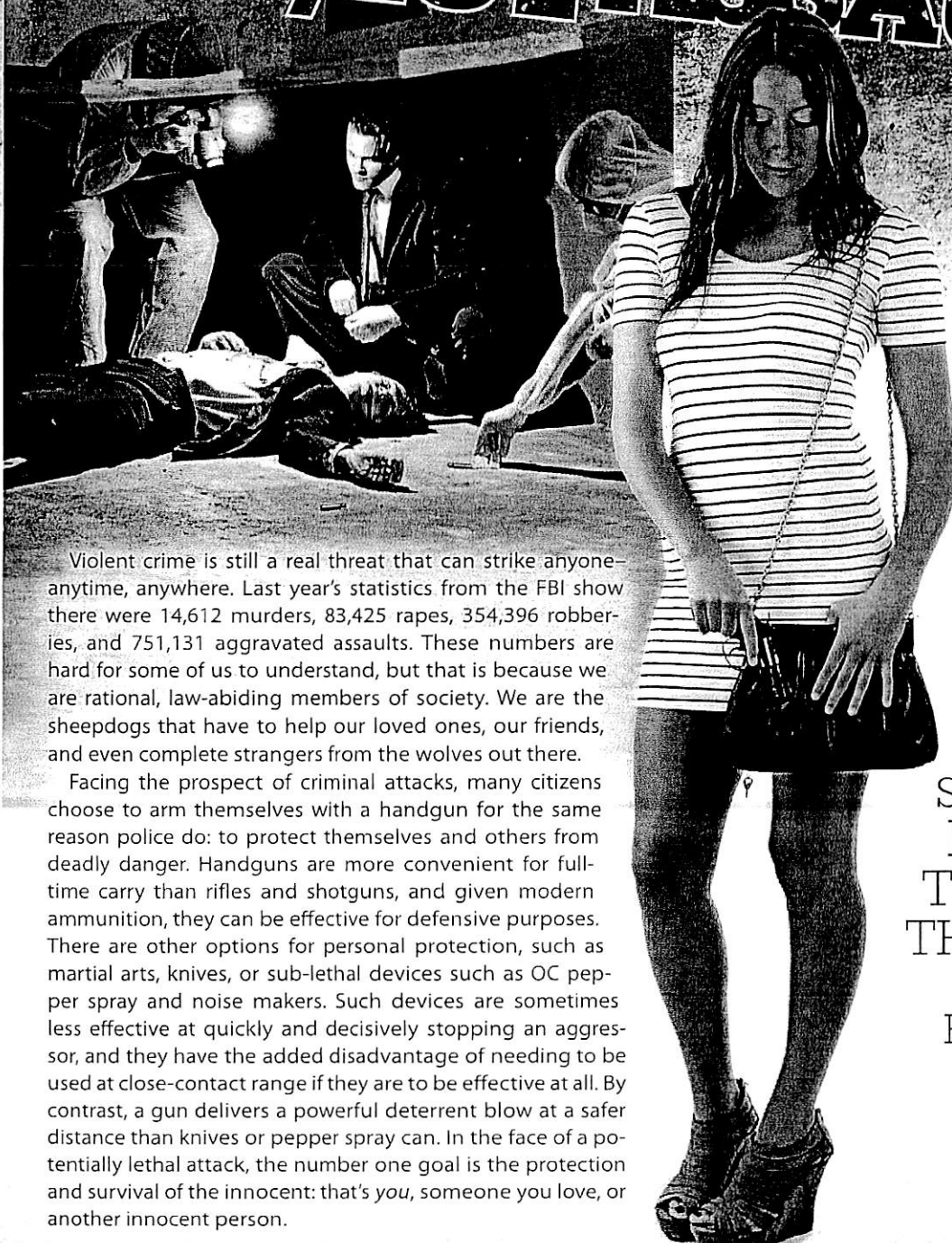
Many honest citizens know this, and they know that when seconds count, the police are minutes away—at best! These honest citizens take responsibility for their own safety and choose to carry a concealed weapon for the protection of their own lives and those of their loved ones. They are not vigilantes, they are not cowboys or wanna-be cops, and they are certainly not wanna-be killers. They are people like you and me who realize that life and family are worth protecting in a dangerous world, and they want to have a fighting chance should crime come unbidden to them. By doing so, they protect not only their own lives, but the lives of those around them. They do this by being a deterrent to those who would do them harm. Before 1987 (when Florida laws set the standard for allowing “shall issue” carry permits), criminals knew it was very unlikely that their would-be victim was armed. No more! With the majority of states now being shall-issue, and with more cit-

izens carrying guns for protection on more American streets, criminals cannot know who is armed and who is not. This deters criminals, and contributes to the decreasing trends in violent crimes nationwide. Carrying a gun is easier than carrying a cop. While the missions of the police officer and the armed citizen are different, guns in the hands of trained citizens can be just as effective against sudden attack as guns in the hands of trained police. The difference is, the responsibly armed citizen has the gun he carries immediately at hand when danger strikes, and need not wait minutes or even hours for help to arrive. Any honest cop will tell you that most of the time, when they are called for help, they arrive after the danger has passed.

Violent crime has gone down in the United States for the last several decades, while the number of guns in civilian hands has gone up. But there is still more than enough violent crime to give the prudent citizen cause for alarm.



14,612 MURDERS
354,396 ROBBERIES
83,425 RAPES
751,131 ASSAULTS



Violent crime is still a real threat that can strike anyone—anytime, anywhere. Last year's statistics from the FBI show there were 14,612 murders, 83,425 rapes, 354,396 robberies, and 751,131 aggravated assaults. These numbers are hard for some of us to understand, but that is because we are rational, law-abiding members of society. We are the sheepdogs that have to help our loved ones, our friends, and even complete strangers from the wolves out there.

Facing the prospect of criminal attacks, many citizens choose to arm themselves with a handgun for the same reason police do: to protect themselves and others from deadly danger. Handguns are more convenient for full-time carry than rifles and shotguns, and given modern ammunition, they can be effective for defensive purposes. There are other options for personal protection, such as martial arts, knives, or sub-lethal devices such as OC pepper spray and noise makers. Such devices are sometimes less effective at quickly and decisively stopping an aggressor, and they have the added disadvantage of needing to be used at close-contact range if they are to be effective at all. By contrast, a gun delivers a powerful deterrent blow at a safer distance than knives or pepper spray can. In the face of a potentially lethal attack, the number one goal is the protection and survival of the innocent: that's *you*, someone you love, or another innocent person.

CITIZENS
CHOOSE
TO ARM
THEMSELVES
WITH A
HANDGUN
FOR THE
SAME REASON
POLICE DO:
TO PROTECT
THEMSELVES
AND OTHERS
FROM DEADLY
DANGER

GUT CHECK:

WILL YOU BE ABLE TO PULL THE TRIGGER?

Are you prepared to kill another human being in order to defend yourself or a loved one? Carrying a concealed weapon for self-defense is not for everyone. It is definitely not for the faint of heart—and using it is even less so! Deadly force should be your last resort, an action you take only when nothing else will work, and only when you're faced with the imminent threat of death or grievous bodily harm. Deadly force is called *deadly* because by its very nature, it is likely to kill the attacker. The point of deadly force is actually not to kill, although that may be the outcome of its use. It is meant to **STOP** a criminal attack that may reasonably be seen as likely to cause death or great bodily harm if it is not defended against.

If you defend yourself with a gun or any other deadly weapon, you may kill or maim someone. No normal person wants to take a human life (which is one of society's greatest taboos), but all normal people want to stay alive as long as possible. Sometimes, using deadly force is the only way to save your own life or the life of someone you love!

The time to think about your ability and willingness to take a life is *before* you take up a gun for self-defense, when you can consider it in the quiet of your home, with ample time to ponder it and ask questions of yourself and others. All those things will be time and effort well spent as you contemplate actions that will be life-changing for you and for the criminal—if he survives.

SCENARIO #1

A wanted parole violator armed himself with a knife and tried unsuccessfully to rob a man in a car in the parking lot of a Royal Oak, Michigan convenience store. Scared off by someone shouting at him from a nearby vehicle, the knife-wielding bad guy turned on a young couple with a baby and demanded money. Hearing the commotion, a CCW holder in the parking lot drew his weapon and confronted the would-be robber, ordering him to drop the knife. He reluctantly complied, and the armed citizen successfully held him at gunpoint for police. Investigators praised the armed citizen for his quick action.

SCENARIO #2

A Conway, South Carolina convenience store owner was leaving his closed store one night when he was accosted by a man brandishing a gun and demanding money. The owner pulled his own legally-carried pistol, and in the ensuing exchange of gunfire, killed the 29-year-old robber, who had a long criminal record. The robber's female getaway driver was arrested and charged with attempted murder and attempted armed robbery. Authorities ruled the shooting by the store owner justified.



ARE YOU WILLING TO ACCEPT THE CONSEQUENCES?

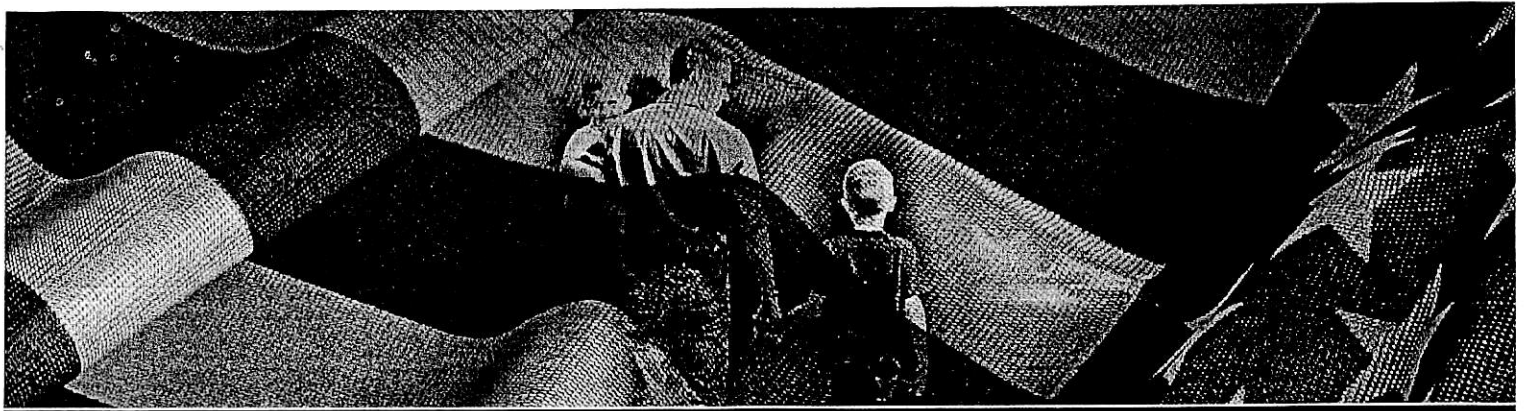
Self-defense with a gun is a fight for survival. The stakes are, literally, life and death. Nothing less justifies using deadly force. But no one really *wins* a gun fight. The best you can do—the very best you can hope to achieve in a defensive gun situation—is to keep what you have: your life, your well-being, and the lives and well-being of your loved ones. There will be consequences of your use of deadly force for self-defense, even if it is successful. One of those consequences is having to live the rest of your life knowing you've seriously injured (or taken the life) of someone. There can be serious criminal and civil consequences for even the most justified of self-defense shootings. These consequences can best be summarized by observing that there are three separate and distinct problems associated with defensive gun use:

1. Surviving the gun fight
2. Surviving the *criminal* justice system
3. Surviving the *civil* justice system

Surviving the gun fight might be the easiest of the problems, but it is by far the most important. If you don't survive, there's nothing else for you to worry about—at least not in this life. That makes surviving the gun fight **Problem Number One**. You do that by 1) being a responsible gun owner, 2) being a responsible gun carrier, and 3) working diligently to achieve a level of skill with your arms so that you are in the best possible position to prevail if ever you must struggle for your life with a firearm.

THE BEST YOU CAN HOPE TO
ACHIEVE IN A DEFENSIVE GUN SITUATION IS
TO KEEP WHAT YOU HAVE: YOUR LIFE,
YOUR WELL-BEING AND THE LIVES AND
WELL-BEING OF YOUR LOVED ONES





SURVIVING THE **CRIMINAL** JUSTICE SYSTEM

You will almost certainly deal with the police after a defensive gun use. They will in all likelihood respond to the scene of the shooting, and they will treat it as a crime scene. They will treat you as a criminal suspect, until and unless they determine differently.

You will likely be handcuffed, you may spend a night (or more!) in jail, and you will most definitely need to explain and defend your actions to the criminal justice system: the police, prosecutors, and possibly a jury of your peers. How well you do that, and the resources you may or may not have at your disposal to help you through that process, will have a huge impact on the rest of your life.

Even the most justifiable shootings can be cast in a bad light by sloppy police work, anti-gun prosecutors looking to make a name for themselves by hanging your scalp on their belt, or by *you*—if you cannot convincingly articulate why you resorted to deadly force at that place and time. If the police or prosecutor decides criminal charges against you are appropriate, you must defend those charges.

Even a losing criminal defense is expensive, and even bad lawyers don't work cheap! The average criminal defense costs around \$100,000—and it can be **much** more, depending on the nature and complexity of your case. While a defense of criminal charges may not be necessary in your case, it may well be, too. These things can never be predicted in advance, but they must be thoroughly considered before you decide to carry a gun concealed for self-defense and in advance of your pulling the trigger.

SURVIVING THE **CIVIL** JUSTICE SYSTEM

Have you ever heard the common warning, "If you shoot someone, you **WILL** get sued!"? Unfortunately, this statement is not far from the truth. Assuming you survive the gunfight and your encounter with the criminal justice system, the criminal or his surviving family may sue you for using a gun to defend yourself.

If you **are** sued, you must defend the suit, or you lose by default.

The standard of proof required to win a civil suit is not *beyond a reasonable doubt* like it is in a criminal trial. No! It's by a preponderance of the evidence, which is a **much lower** standard. That means that even if you survive the criminal trial unscathed, you could still lose the lawsuit.

That's right: even after you have been successful in criminal court, *you can still be found liable for damages in civil court.*

That's why the USCCA offers its members the Self-Defense SHIELD benefit—insurance backed-protection that provides upfront funding to find and retain a qualified lawyer who can defend your good name and your livelihood.

Keep in mind that the full legal aftermath of a defensive gun use, with its range of possibilities and how to prepare for them, is beyond the scope of this article. Still, it is something you **must** consider—and consider well—as you think through and decide whether or not carrying a concealed weapon is the right choice for you.



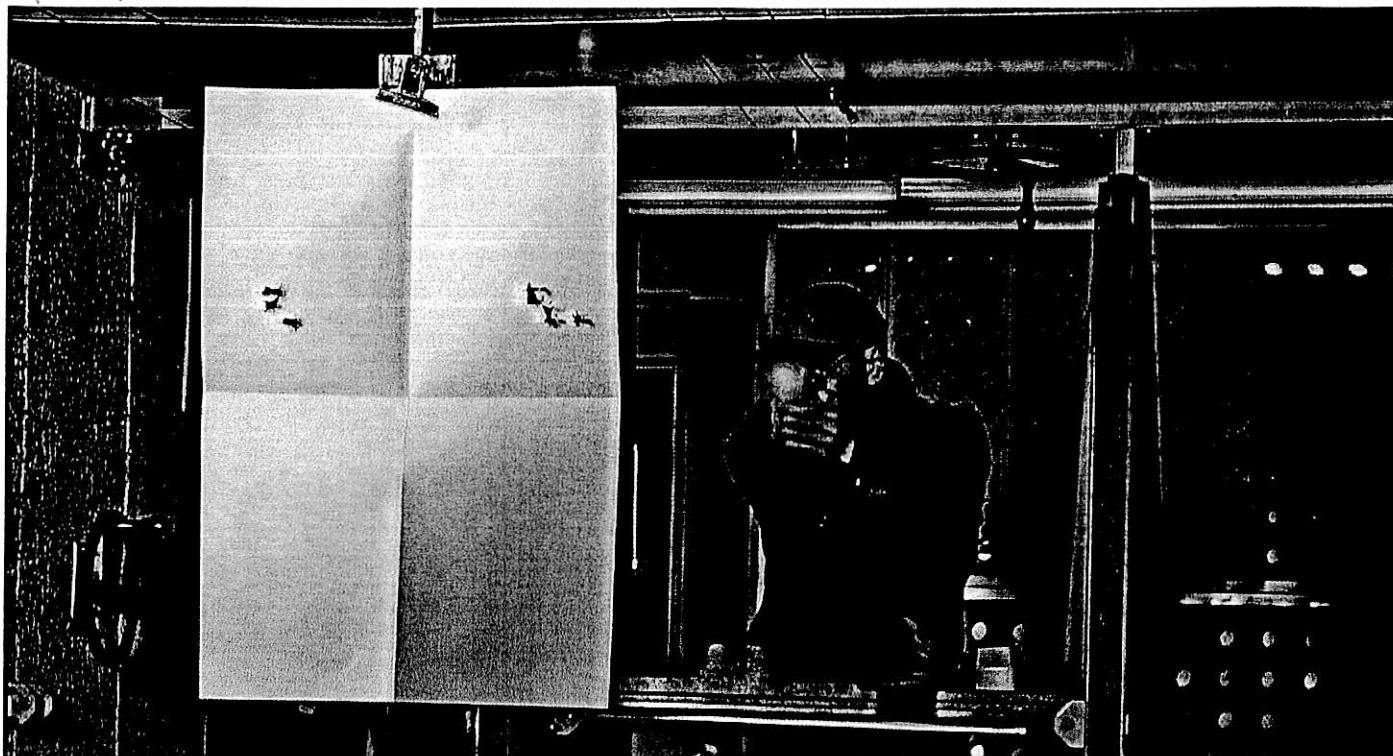
If you're forced to use a weapon in defense of yourself or your loved ones, the USCCA does not want to see you become a victim of the courts. That's why they've developed an insurance-backed benefit called Self-Defense SHIELD. Depending on your level of membership, this benefit will provide you with upfront funding to find and retain an experienced attorney who will work hard to protect you.

You can learn more about Self-Defense SHIELD at www.USConcealedCarry.com.

A black and white photograph of a man and a woman standing side-by-side, both holding firearms. The man, on the left, is wearing a dark button-down shirt and dark pants, holding an assault rifle. The woman, on the right, is wearing a dark, sleeveless dress and high heels, holding a handgun. They are standing in front of a dark background with some faint, glowing rectangular shapes. The overall tone is serious and professional.

ARE YOU A RESPONSIBLY **ARMED** CITIZEN?

The responsibly armed citizen trains in the use of firearms. When you are a responsibly armed citizen, you maintain a high level of skill at arms. You study tactics and laws about use of force and self-defense. You learn to stay aware of your surroundings so you can avoid trouble or deal with it promptly and effectively if you need to. A responsibly armed citizen is not a law enforcement officer with a duty to deter crime and seek out and apprehend criminals. That's not the goal! The goal is to defend innocent life: your own life and the lives of those you love. As a responsibly armed citizen, you know that guns should never be brandished without need. You know you will draw the gun only when you genuinely need to do it, and that if you do need to use it, you will use it decisively and effectively, and only as much as necessary. Carrying a concealed firearm for self-defense is both a citizen's most basic right and most awesome responsibility. If, after careful consideration and study of the matter, you are not sure it is right for you, you should not do it.



BASIC TRAINING

Most states require some level of training before they will grant you a license to carry a concealed handgun. That training typically teaches safe gun handling, basic marksmanship, and local laws about self-defense. The class teaches students where guns may and may not be legally carried. Many, but not all, states also require you to demonstrate that you can safely fire a gun.

This state-required training should be regarded as the beginning—not the end—of learning what you need to know. Permit-related training will familiarize you with the basics of handgun operation and use. It will give you a nodding acquaintance with self-defense laws, but it will not make you a responsibly armed citizen.

So, then, to become a responsibly armed citizen, what's a good goal? Try this: with your carry gun, shoot accurately (keeping all rounds fired in the center of mass of a man-sized target) out to at least 25 yards. Can you do it? Can you do it with your strong hand only? What about with your support hand only? (In case you are wounded in one hand.) This may sound hard to believe, but you have to prepare for anything. You have to be ready to defend your loved ones when they need it. If your "shooting hand" is injured, you have to be ready to fire with your less dominant hand. To see articles and videos that will help you prepare for this situation, visit www.USConcealedCarry.com.

Another good goal is to learn the laws about self-defense well enough that you easily, almost reflexively, recognize situations where you are legally entitled to use deadly force. When you read the news, look for stories of violent crime. When could the victim have legally defended himself with a firearm? When could he not? What elements in the story would need to change to make

deadly force appropriate and legal for the victim?

You will also want to become well-trained in situational awareness. This will help you recognize potential threats before they happen! When you see a problem coming, you can take action to AVOID a confrontation if at all possible.

This necessary level of skill comes only from study and practice at the hands of people who have themselves studied and practiced for a long time. For the responsibly armed citizen, such training never ends. There's always more to learn. Laws about self-defense change at the whim of legislatures and judges, and you must stay abreast of those changes. Maintaining your physical skills and your knowledge of the law is the duty you take up when you decide to carry a gun for the defense of yourself and your loved ones.

Finding a trainer is not difficult. A web search or telephone book will yield many in your area. Finding a good one is a little harder. Check the gun store where you bought your firearm to see if they offer courses in self-defense and handgun tactics. Ask around at your gun club or shooting range. You can even ask local police for suggestions.

Check gun magazines for ads and training reports for nationally recognized firearms instructors. The trainers featured in those ads and magazines have national reputations for a reason, and instruction from them is usually well worth the price. "You get what you pay for," is as true in the gun world as anywhere else, and getting good training in gun-handling skills is more important than in almost any other endeavor. The USCCA is friends with some of the top trainers in the country and has recently launched its own Firearms Instructor Program. Check out www.USConcealedCarry.com for more information.

STATE-REQUIRED
TRAINING SHOULD BE
REGARDED AS THE
BEGINNING—NOT THE
END—OF LEARNING
WHAT YOU NEED
TO KNOW



CHOOSE YOUR WEAPON

As an American, you have a huge advantage when you want to carry a concealed pistol. Every citizen and legal resident has the right to keep and bear arms, and there are more firearms available to the average U. S. citizen than anywhere else on the planet.

Defensive carry handguns will typically be of two types: revolver or semi-auto pistol. While available calibers range from .22 to .50 Action Express, the usual caliber range for serious self-defense consideration starts at .380 ACP and goes to .45 ACP, with stops along the way at .38 Special, .357 Magnum, 9mm, and .40 S&W.

Until police departments moved to the semi-auto pistol to arm their officers in the 1980s, the six-shot revolver, usually in .38 Special—or its more powerful big brother, the .357 Magnum—was the standard sidearm for America's thin blue line. The modern double-action revolver is inherently safe. It is simple to operate, easy to learn to use (but difficult to shoot well), capable of excellent accuracy, and when loaded with today's ammunition designed specifically for self-defense, will give good service to the responsibly armed citizen. The chief drawback of the revolver is its capacity of five or six rounds, which some find to be too few.

The other choice is a semi-automatic pistol, most commonly in calibers .380 ACP, 9mm, .40 S&W, and .45 ACP. The advantages of the semi-auto are larger ammunition capacity, faster reloads, and greater ease of concealment. Since a semi-auto does not have a bulky cylinder, it is flatter and a little easier to conceal than a revolver. The downside is it having more moving parts and thus more things to go wrong, which makes for a greater tendency to malfunction than a revolver. But with modern production techniques, proper training, and proper maintenance on the part of the shooter, semi-automatic pistols are capable of great reliability

and are widely chosen for concealed carry.

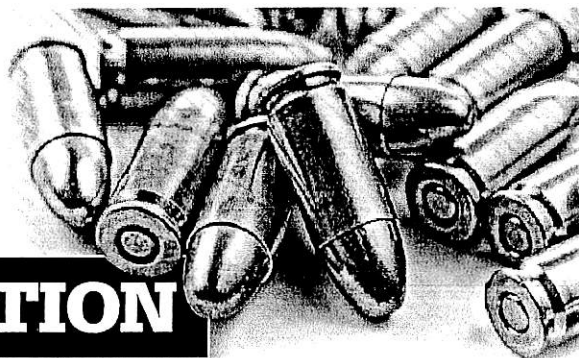
Try out several revolvers and pistols in the different recommended calibers. While shopping for your carry gun, you should know that what you enjoy holding in the shop may *not* feel quite so good in your hand when you shoot it. For this reason, if possible, get to a shop that allows you to rent firearms and try them out on their range before you buy. Your choice for a self-defense sidearm should be the one you can shoot most comfortably and most accurately, and that you will carry every time you walk out your door.

Given careful shopping, and the very wide range of handguns developed and tailored specifically for the U.S. concealed carry market, there is no reason your choice of a daily carry gun cannot be that of a powerful and concealable weapon in one of the effective calibers mentioned earlier. Once you choose one, practice with it until you can quickly and consistently hit the center of a man-sized target at ranges from three feet to 25 yards.

Choosing a handgun can be difficult, but the United States Concealed Carry Association (USCCA) has a great list of valuable tools for you to reference when making your decision.

Simply visit www.USConcealedCarry.com/concealedcarry-magazine/issue-archive/ for great content from some of the nation's most experienced gun trainers and experts.





CHOOSE YOUR AMMUNITION

Self-defense ammunition is the next important part of a self-defense system. It must be accurate, reliable, and capable of delivering a hard hit. Any effective defensive round must hit its target, preferably stay inside its target, and deliver enough power on impact to stop that target from continuing aggressive action against the intended victim.

Your best bet for defensive ammunition includes a hollowpoint bullet, which is designed to expand on impact. You may also choose ammunition with a frangible bullet, which is designed to come apart on impact. Both of these ammunition types dump the bulk of their energy into their target and deliver that energy with maximum force where it is needed most. Both of them put

the brakes on when they hit the target, so they are less likely to go through the bad guy and hit an innocent bystander. All these factors combine to make hollowpoint and frangible rounds good choices for civilian self-defense.

Modern hollowpoint and frangible rounds hit the target accurately and provide a good chance of stopping an aggressor. If you're not sure what ammunition or bullet shape to choose, check what your local law enforcement agencies are using. Police officers carry guns for a living, and their departments have a strong interest in ammunition that will help their officers stay safe. Whatever ammunition they adopt is likely a decent bet for you.

CHOOSE YOUR GEAR

Once you choose a gun to carry, you need to carry it. Your carry gear and mode is just as personal a choice as your handgun and ammunition. You want your mode of carry to be convenient, comfortable, and very discreet. With proper design and construction of the holster/carry system, even a full-size handgun can be carried comfortably and discreetly all day.

Carry modes vary from strong-side, back pocket, front pocket, shoulder, small-of-the-back, ankle, off-body carry in a purse, briefcase or fanny pack and just about anything in-between you can think of. For example, some people might carry the relatively new Ruger LC9 in 9mm in their strong-side front trouser pocket, with an extra magazine of ammo in the weak-side pocket. Others like strong-side hip carry for a full-size 1911 Government Model .45 under a jacket or shirt. Still others prefer a weak-side shoulder holster for a short-barreled 5-shot Smith & Wesson Chiefs Special in .38 Special caliber. It truly is a matter of personal preference.

Give thought to how you typically go through your day. Are you in a car a lot? If so, perhaps a shoulder holster may be for you. Are you usually in a coat and tie while at work? That may make it easier to discreetly carry a full-sized semi-auto pistol most of the time. Perhaps a small-frame semi-auto in .380 ACP or 9mm in a strong-side front pocket



holster may fit the bill. Give thought to your typical routine and how you dress; try out different carry modes and go with what works for you. If you are like most responsibly armed citizens, after a while you will have a drawer or box with holsters you tried and retired for something else. That's okay. Being a responsibly

armed citizen is a journey as well as a destination. If we're lucky, we all learn and grow over time. It's the same with guns and gear. It's an art form, not a science. The important thing is to find what's right for YOU, to know when and how to use your gun to good effect, and to carry that gun whenever it is possible to do so.

WHAT ABOUT THE LAWS?



Until 1934, guns were unregulated in the United States. That was the year the National Firearms Act made it illegal to possess a submachine gun unless a \$200 excise tax was paid to the U.S. Treasury. Interestingly, Congress did not attempt to prohibit the possession, manufacture, or sale of machine guns, instead opting to discourage and thus limit their ownership through the federal government's taxing authority. In 1934, \$200 was the equivalent of about \$3,277 today. Why do it that way? Simply because at that time, few people—including lawyers, judges, and legal scholars—questioned that the Second Amendment meant what it said about the right of the people to keep and bear arms not being infringed.

That changed with the Gun Control Act of 1968 (GCA68), passed in the wake of the John and Robert Kennedy and Martin Luther King, Jr. assassinations. To own a gun today, you must be a U.S. citizen or legal Resident Alien. Persons prohibited from owning firearms under GCA68 include:

- Those convicted of felonies and certain misdemeanors, except where state law reinstates rights or removes disability
- Fugitives from justice
- Unlawful users of certain depressant, narcotic, or stimulant drugs
- Those adjudicated as mental defectives or incompetents or those committed to any mental institution and currently suffering a dangerous mental illness
- Non-U.S. citizens, unless permanently immigrating into the U.S. or in possession of a hunting license legally issued in the U.S.
- Illegal Aliens
- Those who have renounced U.S. citizenship
- Minors, defined as under the age of 18, with the exception of those in Vermont, eligible at the age of 16 (applies to long guns and handguns)
- Persons convicted in any court of a misdemeanor crime of

domestic violence

- Persons under indictment for a crime punishable by imprisonment for more than one year are ineligible to receive, transport, or ship any firearm or ammunition

As long as you are not in one of the prohibited categories, you are federally eligible to own firearms in the U.S. and to apply for a concealed carry permit in most states.

State and local laws regarding gun ownership vary. Most closely follow the federal requirements, but some do not. Check the law in your state for the particular requirements, and follow them scrupulously. For a complete listing of each state's Attorney General and the specifics of gun ownership and CCW regulations, visit www.USConcealedCarry.com/travel/get-your-ccw-permit/ to learn more.

With new laws passed in Illinois, all 50 states now allow some form of concealed carry. Five states allow "Constitutional Carry" (concealed carry without a state-issued permit). Three of those states *also* allow citizens to voluntarily apply for a carry permit.

40 states are officially "shall-issue" states. In shall-issue states, the requirements for getting a concealed carry permit are laid down by law. If you meet the requirements, the state *shall* issue the permit. Your right to carry in these states cannot be thwarted by a lone bureaucrat.

In 9 states, the laws are "may-issue." May-issue states also have a list of requirements laid down by law. When you meet these requirements, the state *may* issue your permit—or it may not, if the pertinent authorities decide not to. Two of these states are shall-issue in practice, but they are still technically may-issue by law. The District of Columbia is a "no issue" jurisdiction. In this area, no law-abiding citizens may carry a concealed firearm—although a glance at the headlines shows us that the criminals certainly do!

GETTING YOUR PERMIT

If you live in a state that is shall-issue, your task is simple: find out the legal requirements for a concealed carry permit, meet them, apply for your permit, and enjoy your new carry privileges. Shall-issue states typically have eligibility requirements pertaining to:

- Age • Residency • Substance abuse history
- Criminal history (felonies are an automatic disqualifier, as are domestic violence convictions)
- Firearms possession
- Training in the legal use of force, self-defense laws, and marksmanship instruction
- Sometimes a requirement to demonstrate firearms proficiency

If you live in a may-issue state, getting a CCW is more difficult, and the outcome is far from certain. Most may-issue states have criteria similar to shall-issue states, but some do not. Find out the requirements of your locality, try to meet them, and hope you get your permit. If you don't, if your jurisdiction has an appeal process, and if you can afford it, appeal the adverse decision as far as the system and your resources allow.



The USCCA runs an active forum that can help answer your most pressing concealed carry questions. The members of the USCCA are a helpful and supportive group and may be able to share with you proven methods and great gun-related insight. Join the conversation at www.usconcealedcarry.com/forum/forum.php





TRAVELING WITH GUNS

To help lawful gun owners avoid having to deal with many different laws when they travel with guns, Congress passed The Firearm Owners Protection Act of 1986 (FOPA). Under this law, you **cannot be convicted** of a firearms offense in a state that has strict gun control laws if you are just passing through on your way to and from places where your firearms are legal.

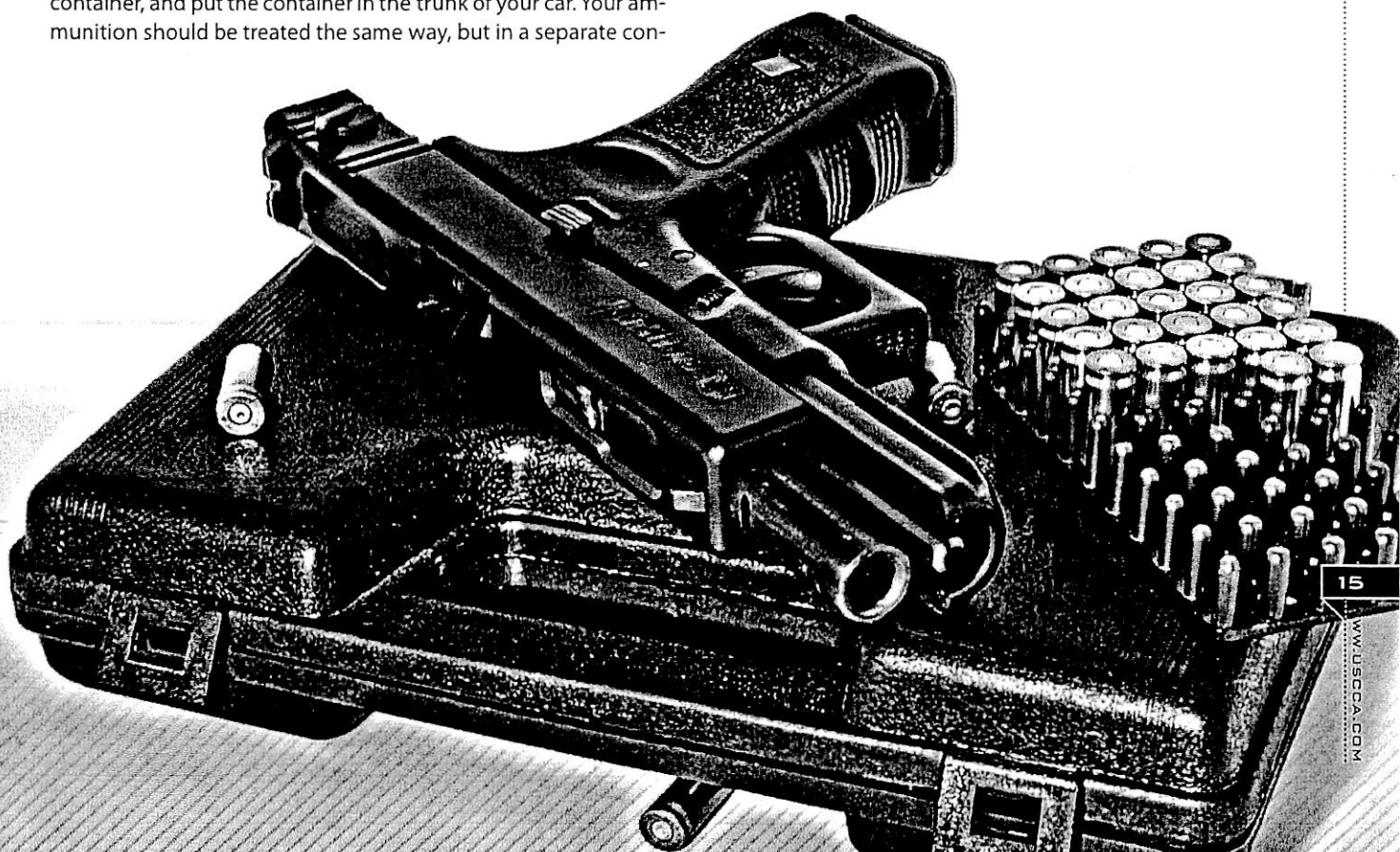
This law protects you *only* if:

- You are just passing through the jurisdiction, making only brief stops such as for fuel;
- You are legally allowed to own firearms;
- Your gun is legal at both ends of your journey;
- Your gun is unloaded;
- Your gun is not accessible to you or to anyone else in the vehicle; and
- Your ammunition is not accessible to you or to anyone else in the vehicle.

This means you should unload the gun, place it inside a locked container, and put the container in the trunk of your car. Your ammunition should be treated the same way, but in a separate con-

tainer. If your vehicle does not have a trunk, you should put the locked container out of sight and as far away from the passenger areas as you can. It is not legal to store the gun in the console or glove box.

Unfortunately, some states require more caution than others. New York and New Jersey are infamous among gun people for their regular and long-standing practice of making felony arrests of gun owners who police find transporting guns in good faith and in accordance with FOPA. Rather than honor FOPA, they knowingly and deliberately arrest the gun owners on felony and force them to go to trial to claim FOPA as an affirmative defense after the fact. Some New York and New Jersey judges and prosecutors follow the federal law, but many do not, and many otherwise honest and law-abiding gun owners permanently lose their gun rights following the felony conviction. The best course of action for gun owners is to entirely avoid New York (city and state) and New Jersey when traveling with guns.





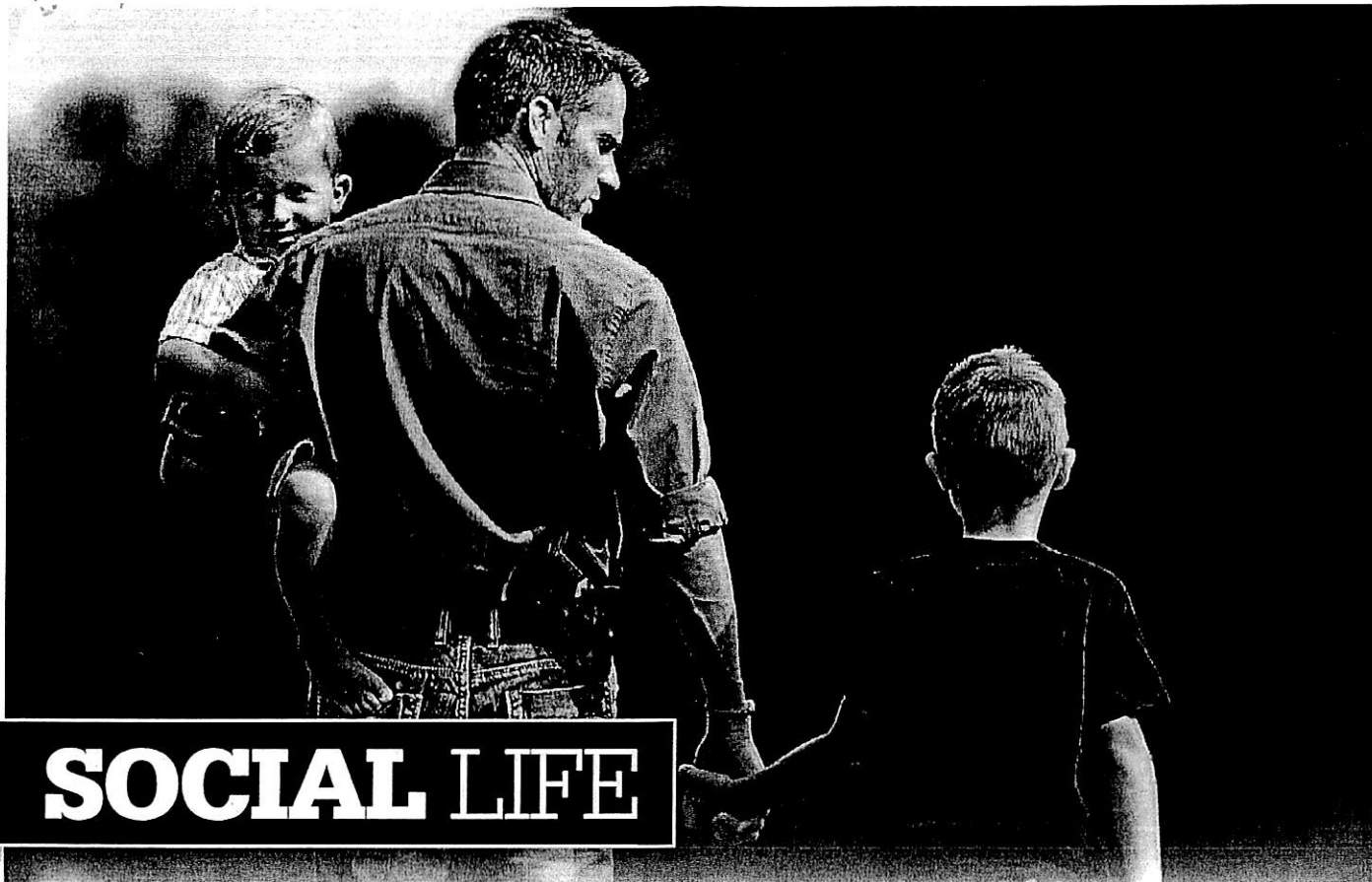
CAN I CARRY EVERYWHERE I GO?

Concealed carry permits are not recognized everywhere. The federal government and all states have places where they do not allow any firearms, much less concealed ones, regardless of the permits you have. The places off-limits usually include, but are not limited to, courtrooms, jails, police stations, school zones, and the sterile area of airports. Every jurisdiction has its own rules.

Unlike a driver's license, states are not required to honor concealed carry permits issued by other states (although some states do have reciprocal agreements with some states that have similar laws). Because of this, and because the off-limits areas differ from one place to another, you will need to be prudent when traveling outside your home territory. The July 2011 issue of *Concealed Carry Magazine* ran an article that went into the subject of traveling armed in some depth. You can view that story here: www.USConcealedCarry.com/ccm-columns/features/seeingthe-usa-while-legally-armed/. An internet resource that includes thorough coverage of state laws governing concealed carry for all 50 states and the District of Columbia is HandgunLaw.US, found at www.HandgunLaw.US/documents/USRVCarCarry.pdf.

Thanks to the dramatic increase in the number of concealed carry permits over the past 25 years and rising public demand, as mentioned above, many states have established reciprocity procedures, allowing carry permits issued by one state to be honored in some other states. For example, 22 other states will honor a concealed firearm permit issued in Nevada. Nevada itself will honor both resident and non-resident carry permits issued by 15 other states.

The list of which states honor permits from other states (and which state's permits they will honor) is constantly changing. Before you travel outside your own state, you should always check to see if your carry permit is valid where you are going. You should also brush up on the rules of carry in that jurisdiction. The USCCA maintains reciprocity information on their website at www.USConcealedCarry.com/travel. It is a powerful tool for you to use, and is always available to reference prior to traveling across any state lines.



SOCIAL LIFE

Who do you tell about your defensive handgun? While many people may be understanding and supportive, many others may not share your enthusiasm for carrying a firearm for personal defense, and may be uncomfortable, or even offended, by your carrying in their presence. Others may be unable to keep from talking about it and drawing unwanted attention to the fact that you're carrying.

It's usually a good idea to focus on the word concealed in the phrase "concealed carry" and choose to tell very few people that you routinely carry a pistol on or about your person almost every time you walk out your door. Your spouse or significant other will certainly know, and close friends may know, but you should keep the number in the know as small as possible. Most people don't need to know that you are carrying, and if a situation arises where its use is needed in their presence, they will find out soon enough.

This gives rise to another important social consideration of carrying a gun: What should family and friends do should you need to use your gun when you are with them? Unless you and they are properly trained in advance of the event, their presence can needlessly complicate things at best, and lead to possibly tragic results at worst. The short answer to this problem is: *the one with the gun is in command*. You should intend to only draw your weapon in extremis, when there is no other choice except to use the gun or see yourself or other innocents die or be seriously harmed. Your spouse, children, and close friends should know to do what you tell them in such situations, and to get out of the way and under cover and stay there until you tell them otherwise.

Another important topic is your social contacts after a defensive gun use. This is the confrontation with the criminal justice system discussed earlier. You've defended your life with a gun, and the police have you in custody. Your one phone call is to your spouse. Does he or she know what to do in that situation?

A full discussion of this topic, though of vital importance, is outside the scope of this survey report, but it is of such importance that it should commend to your attention the serious, deep, and frequent study of the legal aftermaths of a defensive shooting.

For now, give serious and sober thought to what you will do in the immediate aftermath of a defensive shooting. For example, what should you say when you call the police? Do you need to call an attorney? Should you ask your attorney to come to the scene? Probably most important is: Do you have an attorney lined up ahead of time that you can call as needed? The very worst of all possible times to look for a lawyer is when you are sitting in a jail cell after successfully defending your life with a gun. You need to think about it NOW, when you are calm, when your life and freedom are not in jeopardy, and when you can take your time, ask for advice, and study the available literature (there's plenty out there!). You should study the several products on the market designed to aid you in this very situation (including paying legal fees), and choose the one that best meets your needs and your purse, all in the quiet of your own home with no pressure on you at all. After all, how will you pay the legal expenses associated with even a righteous shooting, one where you are not criminally charged or sued civilly after the fact? The United States Concealed Carry Association can help. Their Self-Defense SHIELD benefit includes an insurance policy that designates its members as beneficiaries.

No individual underwriting is required. The USCCA owns and pays for the policy while its members automatically get the benefits. This liability policy is underwritten by the Savers Property and Casualty Insurance Company, a subsidiary of the Meadowbrook Insurance Group. Meadowbrook Insurance Group, Inc. and its insurance company subsidiaries have been rated A- (Excellent) by A.M. Best Company. In 2010, Meadowbrook Insurance Group, Inc. wrote \$801,900,000 in policies. See more information at www.USConcealedCarry.com/membership/.

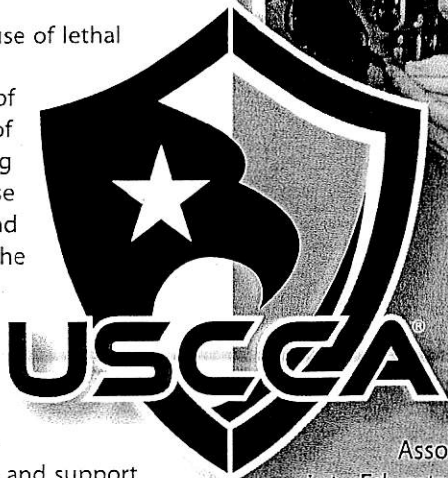


WHAT YOU MUST DO NOW!

If you don't do anything else recommended in this report, do these three things:

1. Get good professional instruction in firearms tactics and practice regularly with your carry gun;
2. Study the rules of self-defense and use of lethal force in your area; and
3. Make adequate arrangements ahead of time for the criminal and civil aftermath of a defensive shooting, including identifying and retaining an attorney who will advise you and defend you in court if needed and securing one or more of the products on the market for meeting and paying for those legal needs.

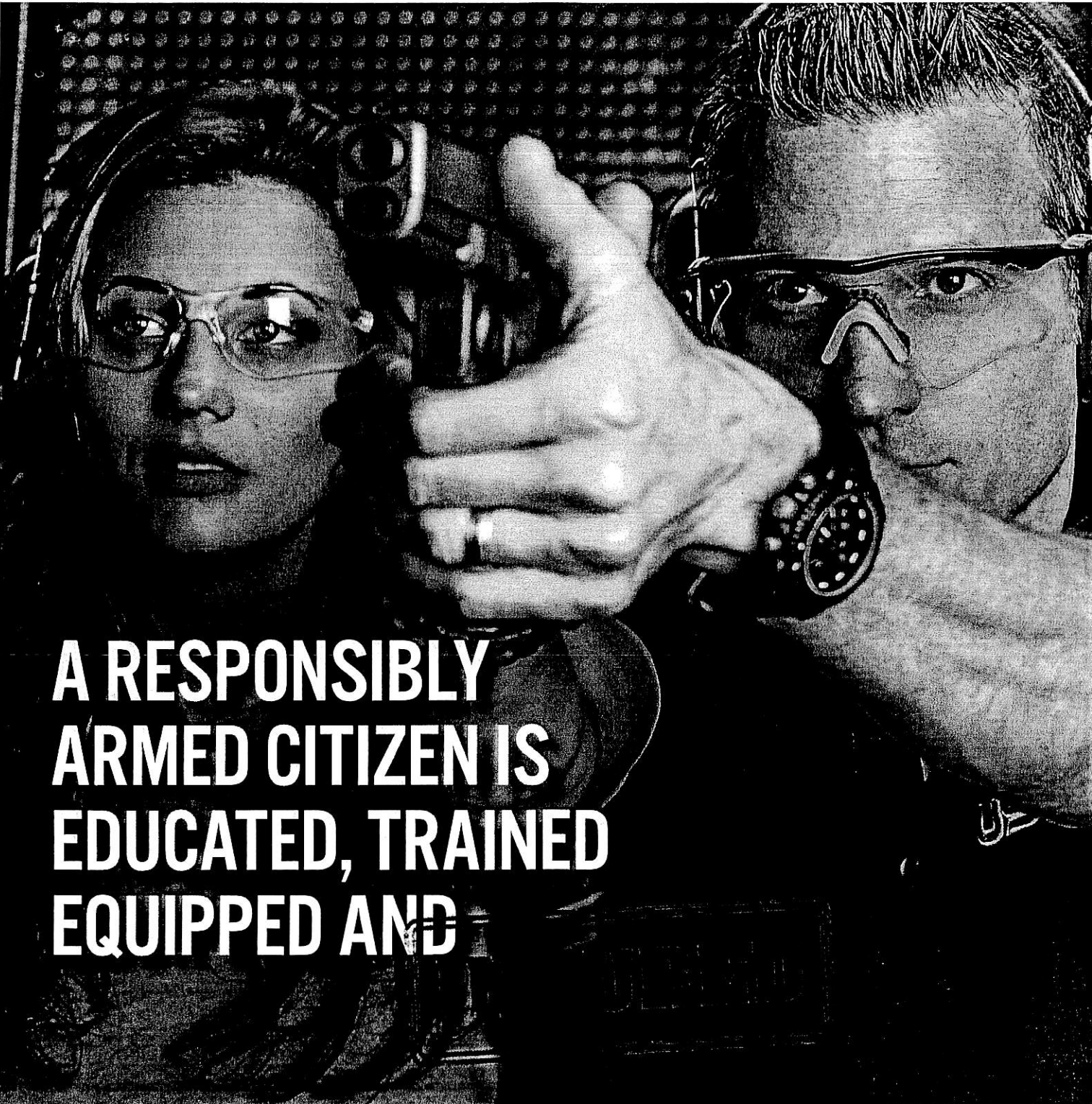
As you start your journey to becoming and staying a responsibly armed citizen, range buddies and friends from shooting clubs and gun-rights organizations can be good sources of information and support in general. They can point you to good training sources in your area, and they can keep you from reinventing the wheel in many ways. You still must do your own due diligence to make sure their advice will work for you. There are numerous internet sites catering to the needs—serious and social—of CCW holders and gun enthusiasts in general. The U.S. Concealed Carry Association has a wealth of pertinent information available with membership, and much advice is also free for the taking from their website, www.USConcealedCarry.com.



HELPFUL RESOURCES

A good starting point for your armed self-defense journey is the United States Concealed Carry

Association (USCCA). The USCCA's mission is to Educate, Train, Equip, and Insure responsibly armed citizens across the country. To access top-notch concealed carry resources, and to find out how you can become the most prepared protector you can be, visit the USCCA at www.USConcealedCarry.com. You might also be interested in learning more about *Concealed Carry Magazine*, the ultimate resource for responsibly armed Americans. Become a subscriber at www.ConcealedCarryMagazine.com.



A RESPONSIBLY ARMED CITIZEN IS EDUCATED, TRAINED EQUIPPED AND

WHAT YOU NEED TO KNOW IS THIS: Every year, the personal and professional reputations of law-abiding Americans are destroyed by criminal charges as a result of a justifiable use of a firearm in self-defense. If you are forced to use your gun in defense of yourself or your family the insurance provided with each USCCA membership will help you find, hire and pay for an expert 2nd Amendment attorney to give you the best chance of victory in court.

USCCA membership provides the education, training and, most importantly, insurance to allow you to carry your gun confidently and without the fear of losing everything if you have to use it.

**THE USCCA IS THE PATH TO BECOMING A RESPONSIBLY ARMED CITIZEN.
JOIN TODAY AT www.GetUSCCAMembership.com**



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YOUR RESOURCE.



NEW AND IMPROVED FOR 2013!
WWW.GETCONCEALED CARRYMAG.COM

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Saturday, September 17, 2016 11:10 AM
To: Ron Wruble; Gary S. Booms
Subject: Interesting equalizer

Morning Fellas

I got this from Kim at MML, we have been working on coming up with something and she found this. It could come in handy.

I checked wit Dow, Sensient Leader Tool, The Gemini Group weapons...probably DTE as well...No one allows weapons.

The city is a Buisness with a 4 Mi + budget...we have the right to set policy for the employees who work for the city. Our rights come from the taxpayers of harbor Beach.

Were good, bring your flak jackets tho..lol and no guns!

Hi Al,

I appreciate that you value my input. We didn't have that many resources to draw on, just the cases involving the district library and the city hall during public meetings of city council. However, I did find the portion of the state statute on Firearms and Ammunition (MCL 123.1103). So, it appears that the state statue enables local governments to prohibit possession of firearms by employees during the course of their employment. My main concern is for the city—I don't want to venture into an area that I don't have a lot of information on or knowledge of.

FIREARMS AND AMMUNITION (EXCERPT) **Act 319 of 1990**

123.1103 Local unit of government; permissible prohibitions or regulation.

Sec. 3.

This act does not prohibit a local unit of government from doing any of the following:

- (a) Prohibiting or regulating conduct with a pistol, other firearm, or pneumatic gun that is a criminal offense under state law.
- (b) Prohibiting or regulating the transportation, carrying, or possession of pistols, other firearms, or pneumatic guns by employees of that local unit of government in the course of their employment with that local unit of government.
- (c) Regulating the possession of pneumatic guns within the local unit of government by requiring that an individual below the age of 16 who is in possession of a pneumatic gun be under the supervision of a parent, a guardian, or an individual 18 years of age or older, except that an ordinance shall not regulate possession of a pneumatic gun on or within private property if the individual below the age of 16 is authorized by a parent or guardian and the property owner or legal possessor to possess the pneumatic gun.
- (d) Prohibiting an individual from pointing, waving about, or displaying a pneumatic gun in a threatening manner with the intent to induce fear in another individual.

History: 1990, Act 319, Eff. Mar. 28, 1991 ;-- Am. 2015, Act 29, Eff. Aug. 10, 2015

Kim

Kim Cekola

Research Specialist/Editor
Legal Affairs Department
Ph: 734-669-6321 | Fax: 734-663-4496
1675 Green Road, Ann Arbor MI 48105
www.mml.org



The information contained in this email is provided solely for general informational purposes and should not be interpreted as legal advice. The League encourages municipal officials to consult with their legal counsel on questions of law.

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Friday, October 07, 2016 10:51 AM
To: Ron Wruble
Subject: Fw: Morning Buddy

Good Morning Ron
This is the conversations I have had with MML.
Matt put me in touch with Kim.
Kim pointed out the MI Law that allows the city to do what we have done.

On Tuesday, September 20, 2016 4:18 PM, Kim Cekola <kcekola@mml.org> wrote:

Al,

You are welcome. I'm glad everything worked out.

Kim

Kim Cekola
Research Specialist/Editor
Legal Affairs Department
Ph: 734-669-6321 | Fax: 734-663-4496
1675 Green Road, Ann Arbor MI 48105
www.mml.org



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From: Al kleinknecht [mailto:akdrives@yahoo.com]
Sent: Tuesday, September 20, 2016 2:44 PM
To: Kim Cekola <kcekola@mml.org>
Subject: Re: Morning Buddy

Hi Kim
Just wanted to thank you again for that "Non-Legal" info on firearms.
It worked perfect.
If anyone else ever contacts you on this issue....you got the "non Legal" recommendation that will make their life a lot easier

Thank you
Al Kleinknecht
City Of Harbor Beach

On Friday, September 16, 2016 4:09 PM, Kim Cekola <kcekola@mml.org> wrote:

Hi Al,

I appreciate that you value my input. We didn't have that many resources to draw on, just the cases involving the district library and the city hall during public meetings of city council. However, I did find the portion of the state statute on Firearms and Ammunition (MCL 123.1103). So, it appears that the state statute enables local governments to prohibit possession of firearms by employees during the course of their employment. My main concern is for the city—I don't want to venture into an area that I don't have a lot of information on or knowledge of.

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History: 1990, Act 319, Eff. Mar. 28, 1991 ;-- Am. 2015, Act 29, Eff. Aug. 10, 2015

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From: Al kleinknecht [<mailto:akdrives@yahoo.com>]

Sent: Friday, September 16, 2016 9:53 AM

To: Kim Cekola <kcekola@mml.org>

Subject: Re: Morning Buddy

Thank you Kim

I did some checking.

We were elected by the people of Harbor Beach to oversee / manage the running of our city.

The city has a 4 Million + budget and is ran as a business with the Mayor being CEO.

If the city does not permit an employee of the city to carry a weapon, one who does not have it in their job description (Police), licences or not we are not infringing on their rights. We are honoring our fiduciary responsibility by protecting the assets of the city. The employees can carry a weapon anywhere he or she may want to, it is their right but not during time paid by the City of Harbor Beach.

If an untrained employee were to shoot someone while on the time clock...who do you think would get sued?

I have checked with many business's within our community and have not found one that allows firearms to be carried by employees.

We are running a business...the City of Harbor Beach.

I have checked with our lawyer and we are all in agreement.

I value your opinion and won't put you on the spot...but if you could answer the next question yes or no it will not be a legal opinion....just the opinion of a professional whose comments I trust.

Question:

Am I possibly barking up the right tree? Not advise..just Kim's opinion

YES:

NO:

Thank you
Al Kleinknecht
City of Harbor Beach

On Friday, September 16, 2016 9:16 AM, Kim Cekola <kcekola@mml.org> wrote:

Hi AL,

You're right—this does sound like a potential legal situation for the city. The League cannot provide legal advice. You will need to contact your municipal attorney and ask him/her if the city is on sound legal footing.

Sincerely,
Kim Cekola

Kim Cekola
Research Specialist/Editor
Legal Affairs Department
Ph: 734-669-6321 | Fax: 734-663-4496
1675 Green Road, Ann Arbor MI 48105
www.mml.org



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From: Al kleinknecht [<mailto:akdrives@yahoo.com>]
Sent: Wednesday, September 14, 2016 2:41 PM
To: Kim Cekola <kcekola@mml.org>
Subject: Re: Morning Buddy

Thank you Kim
Right now our problem is not open carry as far as in a city establishment.
Our problem right now is we have a crossing guard (employed by the city) who has been carrying a concealed weapon for at least a year.

We had a policy in our personal manual stating that concealed weapons are not permitted to be carried by a city employee.
There was a failure to communicate that last year to this person so that is on us, and she is not being targeted for that.

Under MI law the way I understand it concealed weapons are not permitted on school property period.
So at present she wants to open carry a hand gun while working as a crossing guard.

About 2 week ago we (the council) made a motion and it passed to also include no open carry by a city employee.

What I am looking for is something that might indicate that we are ok in our actions or if not, proof that we should rescind the open carry policy to stay with in the law.

About the last thing in the world we need to do is open the city up for any legal action against the NRA or similar organizations.

Question in a nut shell:

Are we on good legal ground banning weapons from city employees use / carry during working hours?

Thank you
Al Kleinknecht
City of Harbor Beach

On Wednesday, September 14, 2016 11:18 AM, Kim Cekola <kcekola@mml.org> wrote:

Hi Al,

I am responding to your inquiry regarding guns at city hall/buildings. The League can't provide legal advice, but I can tell you that this is a litigated area, with the most recent being a case regarding the Lansing District Library. The city of Ferndale was involved in a case in 2003, and the court found that the city could not regulate guns in municipal buildings because state law pre-empted this area. I have attached an article from our magazine on Open Carry, and also a summary of the Ferndale case. You will want to run this by your municipal attorney.

Let me know if you have any further questions.

Sincerely,
Kim Cekola

Kim Cekola
Research Specialist/Editor
Legal Affairs Department
Ph: 734-669-6321 | Fax: 734-663-4496
1675 Green Road, Ann Arbor MI 48105
www.mml.org



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From: Matt Bach
Sent: Wednesday, September 14, 2016 10:06 AM
To: Kim Cekola <kcekola@mml.org>
Subject: Fwd: Morning Buddy

Inquiry question below from Harbor Beach. Can you respond to him for me Kim?

Sent from my iPhone

Begin forwarded message:

From: Al kleinknecht <akdrives@yahoo.com>
Date: September 14, 2016 at 9:29:34 AM EDT
To: Matt Bach <mbach@mml.org>
Subject: Morning Buddy
Reply-To: Al kleinknecht <akdrives@yahoo.com>

Morning Matt
Well, you getting ready for fun in the sun at the Island?
I won't be there but will look forward to the Photos you take.

Question?
Who do I contact for legal information concerning guns in the work place?

We have a little issue going on that I could use a little help on.

Thanks

Al Kleinknecht
City of Harbor Beach

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Friday, October 07, 2016 10:53 AM
To: Ron Wruble
Subject: Re: Thoughts

Good Morning

This email was received from you plus one of my emails

On Saturday, September 17, 2016 8:55 AM, Ron Wruble <rwruble@harborbeach.com> wrote:

Good Morning,

My daughter Stephanie and Daughter-In-Law Deanna both work in the HR field Stephanie for the Charlotte Hornets and Deanna for Gemini. They both told me that they know of no other business or organization except law enforcement or a security firm

that allows weapons in the work place. I am sure there are some somewhere, but they are few and far between. Some organization will fire you if you even bring a gun on their property.

Ron

From: Al kleinknecht [mailto:akdrives@yahoo.com]
Sent: Friday, September 16, 2016 8:16 AM
To: Gary S. Booms; Ron Wruble
Subject: Thoughts

Morning

I got thinking, we were elected to more or less are running a business when we were elected to council. You are the CEO of a 4 million dollar a year business. (Leslie was going to get me our yearly budget info. along with checking with Jeff on Sensient's gun policy)

The council's best interest is to run the business and keep it solvent. (one bad shooting from a person who has not had police training or who was not hired to be a police officer for the city could put the city in a bad position)

Gemini group, Dow, Sensient, probably DTE, the county employees plus many more that I haven't checked with do not allow weapons in the work place

Why is our business any different then theirs?

If you get a chance ask a few companies that you may know if they allow guns..either concealed or Open carry...I bet the majority of them don't.

With this.....we are not infringing on anyone rights to own a gun or carry a weapon. We are running a business that does not allow weapons by it's employees.

Al

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Friday, October 07, 2016 11:02 AM
To: Ron Wruble
Subject: Foia Notes
Attachments: Concealed-Carry-Guide-2013.pdf; LB summary of MCRGO v Ferndale.pdf; Open Carry - Review- may-june 2013.pdf; Defense Notes.doc

Hi Ron.

These are my notes / thoughts and downloads that I used to research this topic.

I can't think of anything else I might have had ..or at least that I can think of.

Al

2. Plaintiff Gallagher. Gallagher claimed that she was handcuffed for one minute while photographs were taken of her bruises. Gallagher could not, however, identify which officer handcuffed her. Gallagher was required to show not only that there was a seizure but also that it was unreasonable under the fourth amendment. Since she was unable to prove which defendant had violated her rights, summary judgment was appropriate.

C. Malicious prosecution claim

The court then reviewed the status of a claim for federal malicious prosecution under the Fourth Amendment. The court stated that although the elements of a federal malicious prosecution claim had not been set forth in the Sixth Circuit, it was clear that a plaintiff must show, at a minimum, "that there was no probable cause to justify [his] arrest and prosecution" because Thacker's arrest and prosecution were justified by probable cause, Thacker could not demonstrate any seizure in violation of the Fourth Amendment.

D. Qualified immunity

The court reviewed the Sixth Circuit standard for qualified immunity which shields government officials performing discretionary functions from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable officer would have known. The court followed the standard in *Ewolski* explaining that a court must first determine whether the facts viewed in the light most favorable to the plaintiffs would show that a constitutional violation occurred and if so then whether the violation involved clearly established constitutional rights which a reasonable person would have known. The court concluded that no constitutional violations occurred and that even if they had, the defendants would be entitled to qualified immunity because they did not violate any clearly established rights of which a reasonable officer would have known. The court noted that we cannot find that it was clearly established that entering a home without a warrant to secure the safety of paramedics under the circumstances presented in this case would violate the Fourth Amendment." Furthermore, since the question of probable cause for the arrest was a close one, reasonable officials could disagree as to whether probable cause existed.

Finally, the court reviewed the state law claims for malicious prosecution and false arrest. *Thacker v City of Columbus*, No. 01-4097 (April 30, 2003.)

Michigan Court of Appeals

Preemption--Possession of weapons--Municipal buildings

On November 12, 2001, pursuant to its general police power, the city of Ferndale enacted an ordinance which prohibited the possession or concealment of weapons in all buildings located in Ferndale that are owned and/or controlled by the city. The ordinance contains certain exemptions including those for law enforcement officers, auxiliary and retired police officers. The specific buildings subject to the ordinance were identified in the ordinance.

Plaintiffs, who included the Michigan Coalition for Responsible Gun Owners (MCRGO) and three individuals, filed a complaint seeking injunctive and declaratory relief and alleging that the ordinance is unconstitutional under the Michigan Constitution and is preempted by state statutory law including MCL 28.421 et seq. and 123.1101 et seq. The city maintained that the ordinance was a valid exercise of the city's police power pursuant to the Michigan Constitution, the Home Rule City Act and the Ferndale Charter.

The city filed its motion for summary disposition. Plaintiffs argued that the ordinance was in direct conflict with the state statutory scheme and that the ordinance was preempted by the state statutory scheme for multiple reasons. The city argued that the state law does not preempt the ordinance; rather the ordinance was merely an extension of the prohibition posed by the state and does not conflict with the Michigan statutes.

The trial court found that the Ferndale ordinance was not preempted and that the ordinance was merely an extension of the prohibition already imposed by state law.

The court of appeals reversed and began its analysis by stating that cities have the authority to adopt resolutions and ordinances that have the force of the law relating to their own concerns, property, and government by virtue of Const 1963, art 7, § 22. The court also referred to art 7, § 34 which indicates that provisions of the Constitution and law concerning counties, townships, cities and villages, shall be liberally construed in their favor. The court further cited *Mack v Detroit*, 467 Mich 186, 194: "Although art 7, § 22 grants broad authority to municipalities it clearly subjects their authority to constitutional and statutory limitations."

The court then analyzed the provisions of the Home Rule City Act noting specifically that the act provides that "No provisions of any city charter shall

ordinance is preempted by state law if 1) the statute completely occupies the field that the ordinance attempts to regulate or 2) the ordinance directly conflicts with a state statute.

With respect to the standard of whether a municipal ordinance completely occupies a field of regulation the court cited *People v Llewellyn*, 401 Mich 314. In that decision, the Michigan Supreme Court set out four guidelines: 1. Where the state law expressly provides that the state's authority to regulate in a specified area of the laws to be exclusive, municipal regulation is preempted. 2. Preemption of a field of regulation may be implied upon examination of legislative history. 3. The pervasiveness of the state regulatory scheme may support a finding of preemption, which, although not generally sufficient by itself to infer preemption, may be considered as evidence of preemption. 4. The nature of the regulated subject matter may demand exclusive state regulation to achieve the uniformity necessary to serve the states' purpose or interest. It was noted that as to the fourth guideline, if the nature of the regulated subject matter calls for regulation adapted to local conditions, and the local regulation does not interfere with the state regulatory scheme, supplementary local regulation has generally been upheld. However, if the nature of the subject matter regulated called for a uniform state regulatory scheme, supplementary local regulation has been held preempted.

The court of appeals then examined the relevant state firearms statutes. In 1990 the state legislature enacted MCL 123.1101 et seq. "to prohibit local units of government from imposing certain restrictions on the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunitions for pistols or other firearms, or components of pistols or other firearms." The court also noted that in 2000, the legislature enacted amendments to MCL 28.421 in part to regulate the selling, purchasing, possessing and carrying of certain firearms.

MCL 123.1102 mandates that a local unit of government shall not adopt an ordinance with respect to the possession of pistols or other firearms "except as otherwise provided by federal law or *law of this state*." (Emphasis supplied). "The effect is to occupy

nance or regulation concerning the possession and transportation of pistols or other firearms such as the Ferndale ordinance." The city argued that the list of premises on which the carrying of a concealed pistol is prohibited (MCL 28.425o(1)) was not all-inclusive and rather that the inclusion of the language "and except as otherwise provided by law" was indicative of legislative intent to allow other exceptions to be established.

The Michigan Court of Appeals disagreed, holding that these two statutes in question are in *pari materia* and must be read together as one law. The court of appeals concluded that the legislature intended to maintain the prohibitions placed on local units of government as contained in §1102. The court held that the ordinance was preempted by state law.

The court did not reach the issue of whether the Ferndale ordinance was in direct conflict with MCL 28.421. *Michigan Coalition for Responsible Gun Owners v City of Ferndale*, No. 242237 (April 29, 2003).

Procedural due process--Ordinance-- Abatement of nuisance

Plaintiff sued the city of Sterling Heights and an independent tree removal service for trespass and inverse condemnation after a diseased tree was removed from his property. The defendants claimed that the actions were lawful because the tree was a nuisance and because the city complied with its ordinance procedures for abating a nuisance including the procedures for giving appropriate notice to the property owner. Notices were sent to the plaintiff's niece with no response. The tree was ultimately removed. The city assessed costs to the plaintiff who then sued the city and the tree removal service. The jury found for the defendants; the Michigan Court of Appeals, in an unpublished decision, affirmed.

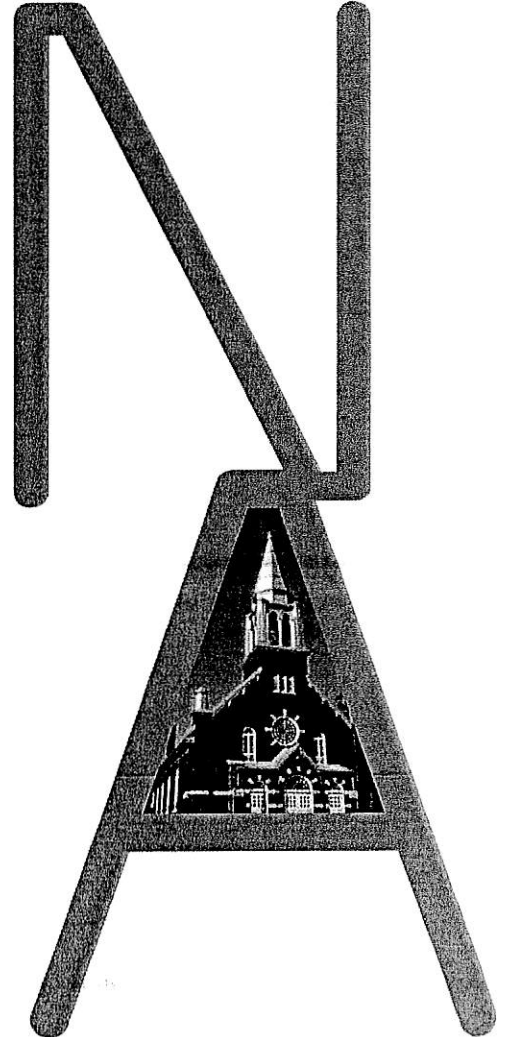
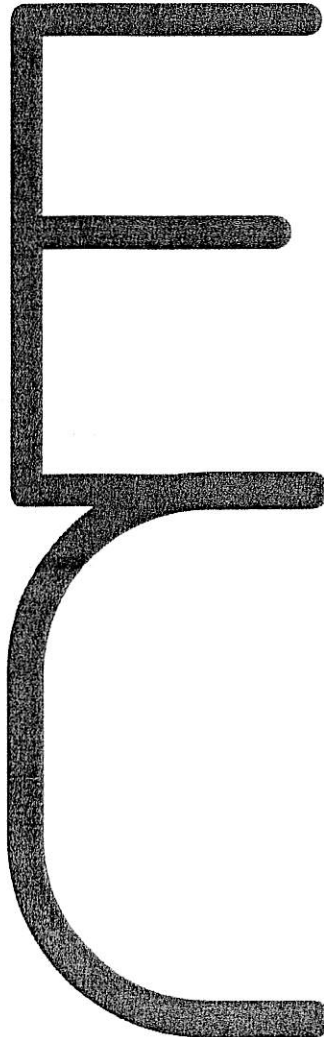
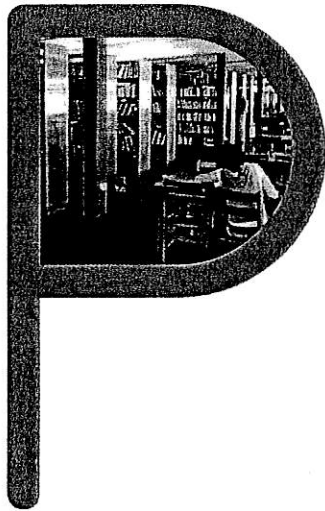
Toussaint is the legal owner of a parcel of property in Sterling Heights. His niece, however, was listed as the owner on the city's property tax assessment rolls. A maple tree which was located on plaintiff's property was rotting and infested with insects. The city determined that the tree was a hazard and violated a city ordinance requiring property owners to remove trees that are infected if necessary for the protection of the public safety, health and welfare. The

By Gene King

Public Officials Must Know the Law Concerning

Although Michigan has many laws that regulate the ownership and possession of firearms, the state does not have a law that prohibits people from openly carrying firearms. At the same time, recent high profile shooting incidents have increased the public's concern about firearms and have led to controversy over gun control. The controversy has landed at the feet of elected officials who feel pressured to take action. This article outlines Michigan law so public officials understand why, even though some may find the presence of firearms to be threatening or intimidating, the ability to carry the firearm in a lawful and responsible manner is currently protected by state law.

Under Michigan law, a person who is an adult (18 years or older) may openly carry any legal firearm, and a person under 18 years old, while supervised by an adult, may openly carry a shotgun or rifle. Michigan law allows a person with a concealed pistol license (CPL) to carry a firearm concealed, except where concealment is specifically prohibited. In all cases, the firearm must "be able to be observed by those casually observing the person as people do in the ordinary course and usual associations of life" (*People v. Reynolds*, 38 Mich App. 159 (1970)).



Because there is a probability of encountering persons exercising their constitutional rights by openly carrying a firearm, the League has made a significant effort to educate law enforcement of the need to change their perception about people legally carrying a firearm. No longer is the presence of a gun the automatic mark of a "bad" guy. All public employees and officials need training on how to distinguish between someone behaving in a manner that may pose a risk as opposed to a person who chooses to carry a firearm legally.

STATE OF THE LAW

The Second Amendment to the U.S. Constitution states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The Michigan Constitution, Article 1, Section 6, reads, "Every person has a right to keep and bear arms for the defense of himself and the state." A good resource on Michigan law is the Michigan State Police publication, *Firearms Laws of Michigan*, available at www.michigan.gov/msp/0,1607,7-123-1591_3503_4654---,00.html. It is important to note that Michigan law has a large number of restrictions on who cannot possess or own a firearm.

Michigan law (MCL 123.1102), *Regulation of pistols or other firearms*, prohibits municipalities from passing ordinances that exceed firearm regulations under federal or state laws. For example, the Michigan Court of Appeals ruled in *MCRGO v Ferndale*, 256 Mich. App. 401, (2003) that the city's ordinance prohibiting the possession or concealment of weapons in all buildings owned or controlled by the city was invalid because state law barred local units of government from enacting and enforcing ordinances that make local public buildings gun-free zones. This opinion continues to be supported in case law.

Therefore, in Michigan, a person may carry a firearm with lawful intent, openly exposed in places other than

those prohibited by statute or by private property posted "no firearms allowed," and/or as dictated by the hunting and sporting laws. This means public entities, including schools, cannot prohibit firearms carried under a CPL or openly exposed in public areas of public buildings.

READ CAREFULLY TO AVOID CONFUSION

MCL 750.234d (1) sets forth the premises on which individuals cannot possess a firearm. These are:

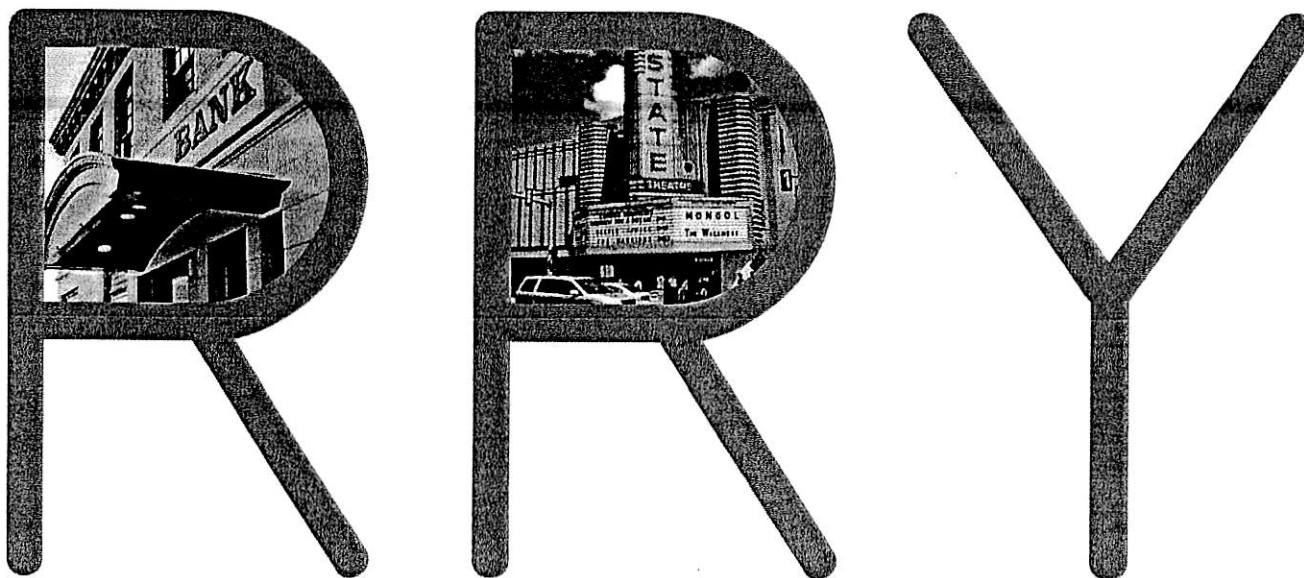
- (a) A depository financial institution or a subsidiary or affiliate of a depository financial institution.
- (b) A church or other house of religious worship.
- (c) A court.
- (d) A theatre.
- (e) A sports arena.
- (f) A daycare center.
- (g) A hospital.
- (h) An establishment licensed under the Michigan Liquor Control Act.

Notice the list does not contain schools or libraries.

MCL 750.234d(2) then establishes the applicability of the regulation. Under this section, a person with a CPL may carry a firearm, either concealed or openly, on any of the premises in the above list.

Weapon-Free School Zones (MCL 750.237a (4)), prohibits any firearms except when carried by persons who are exempted in MCL 750.237a (5).

Exemptions include persons licensed by this state or another state to carry a concealed weapon. This is in conflict with MCL 28.425o(1)(a), CPL Act, which lists a school as a "gun free zone." A person with a CPL cannot carry a concealed pistol except in a vehicle on school property, but they can openly carry a firearm while on school property.



A CASE WORTH WATCHING

In *Capital Area District Library (CADL) v Michigan Open Carry Inc.*, 298 Mich. App 220 (2012), on appeal, the Michigan Supreme Court is being asked to determine whether district libraries established pursuant to the District Library Establishment Act, MCL 397.171 et seq., are subject to the same restrictions regarding firearm regulation that apply to other local public libraries established by local units of government.

The case involves members of Michigan Open Carry Inc. (MOC) openly carrying guns in CADL's downtown Lansing branch. CADL has a policy that no weapons are allowed on its premises. One occasion allegedly involved a person carrying a shotgun. Some library patrons and employees were disturbed by the presence of exposed firearms. CADL believes that Michigan law permits it to prohibit the open carrying of firearms on its premises. The CADL received injunctive relief from the Ingham County Circuit Court and MOC appealed to the Michigan Court of Appeals. The Michigan Court of Appeals ruled in October of 2012 that district libraries are a quasi-municipal corporation and must comply with the pronouncement in MCL 123.1102 as ruled in *MCRGO*, which is that CADL may not regulate firearms beyond the state law and could not prohibit open carry. The CADL then appealed to the Michigan Supreme Court.

PUBLIC OFFICIALS HAVE TO UNDERSTAND!

The most important point to remember when involved with subjects who are openly carrying firearms in non-prohibited places is that if they comply with the law, they are exercising their constitutional right. No matter how concerned citizens may become and no matter what personal or professional opinion a person has, these people can do what they are doing. If the person is on private property and the property owner or their representatives do not object or have not posted notices prohibiting firearms, the person is complying with the law.

FORGET THE CONSTITUTION, WE HAVE AN ORDINANCE!


Audrey Forbush, Plunkett Cooney, PC, the Law Enforcement Action Forum Legal Advisor, cautions that public entities should review their ordinances addressing firearms. She suggests consulting the entity legal advisor to ensure the ordinances meet current state law. Entities also should never rely on the enforcement of a local ordinance to trump state or federal law. Carrying a gun in and of itself does not constitute disorderly conduct and brandishing occurs only when the person is waving the gun around in a threatening manner. A person's fear when in the presence of a gun does not constitute an assault.

TRAINING

By now, all public entity employees should have received training on encountering people who are openly carrying a firearm. They should know how to handle the situation and follow established protocol. If the person is behaving in a fashion that raises concern, it is reasonable to contact law enforcement or security to ensure the person behaves appropriately. The key for

requesting assistance is the behavior of the person and not the mere existence of the firearm.

Forbush opined that this is especially true given the high degree of publicity the open carry issue has received. She points to a U.S. Sixth Circuit Court of Appeals case, *Gregory v City of Louisville*, 444 F.3d 725 (6th Circuit, 2006) as being directly on point. In Gregory, the Sixth Circuit pointed to *City of Canton v. Harris*, 109 S.Ct. 1197 (1989) "deliberate indifference" standard in assessing liability because a municipality failed to train officers in their duty and that failure had a "highly predictable consequence" of being a moving force of a constitutional violation. The Canton decision is the bellwether case that affects all public entity employees, not just police.

In light of *Canton* and with the Courts looking at the *highly predictable consequences* of the actions of employees, Forbush believes that public entity employees must receive training on tasks or responsibilities that the employer expects them to fulfill regularly. The training does not have to be formal classroom instruction, but the entity has an obligation to educate its employees and to document all such activities. Forbush suggests using the Michigan State Police resources and newsletters that discuss the firearms laws. The MML's Law Enforcement Action Forum (LEAF) Newsletter about open carry is also a good resource. 

Gene King is the Law Enforcement Action Forum coordinator and loss control consultant for the League. You may contact him at 248-204-8040 or gene.king@meadowbrook.com.

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Gary

Michigan is a (Shall Issue) state

Places in Michigan where carrying is prohibited, with or without a permit:

- Schools
- Day care centers
- Sports arenas
- Taverns or any establishment where the primary source of income is the sale of alcohol for on-premises consumption.
- Churches
- Entertainment facilities with seating capacities of 2,500 or more.
- Hospitals
- Casinos

Additional Provisions or Restrictions

Michigan law prohibits anyone from carrying a gun if they're under the influence of alcohol. The law is more restrictive than DUI standards; a person does not have to be legally intoxicated to be in violation of the law. Legal interpretations have suggested that a person not carry if they have had any alcohol at all.

This is being provided so that all parties involved understand and know all that has transpired.

What this conversation is all about is **not** about the rights of a citizen to carry a weapon nor is this in anyway to be construed as a form of censorship by the city of harbor Beach to impede those afforded rights by the state of Michigan.

The conversation is about the rights of the City of Harbor Beach to prevent an employee who is not authorized "by job description" to carry a weapon while in the work place or on city time when it is prohibited within the organization.

Mrs Armatage is an employee of the city of Harbor Beach and was hired approximately 1 year ago as a crossing guard. She has performed her job in a friendly and professional manner for most of her service time.

Apparently Mrs. Amatage carried a concealed weapon throughout the 2015-2016 year without Police Chief Buholtz nor the city councils knowledge or approval.

Mrs. Armatage stated she was never given a handbook that stated an employee could not carry a concealed weapon while working for the city of Harbor Beach

(We need to add what is in the hand book). Ex:(While employed by the City of Harbor Beach, No one other then personal hire by the city for the expressed purpose of honoring and full filling their job description will be allowed to have a concealed or open carry weapon while working on City Time)

The city of Harbor Beach acknowledges their shortcoming in informing Mrs. Armatage of the city policy at the time of hire and as of right now is a mute topic and not further is anticipated.

Once informed of the rules, Mrs. Armatage ask about open carry with in the city work place. Open carry (Out of job description) was never a consideration do the past laws that were adopted with prevented that from happening in a school zone.

A motion was made to add (No Open carry to go along with the concealed weapons topic to the personal manual on 9/5/16) All council members voted to approve this motion and it became part of the manual.

The council has made their decisions by reviewing recommendations from our insurance company concerning Liability issues, our lawyers concerning the conformity to the laws and many citizens who have expressed concern about this topic.

Mrs. Armatage was ask not to carrier a weapon at her place of work do to the fact there is a policy now in the personal manual that prohibits it.

This is where we are at at this very moment.

No one has been disciplined and the only rights that have been affected by the City Council decisions are in their right to govern the city of Harbor Beach and fill the responsibility that each council members have be voted in by the people of Harbor Beach to do.

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Monday, October 10, 2016 8:50 AM
To: Ron Wruble; Les Woycehoski; Gary S. Booms
Subject: Question answered by tonight !
Attachments: LM_2013_MI_Library_Laws_Handbook_423082_7 (1).pdf

Good Morning.

Les or Ron

I don't know what will happen tonight concerning the committee meeting but I would like an answer from John Ferris concerning with signiture.

MC 123.1103 Section 3 Act. 319 or 1990. In the manual it is on Page 90.

Attached is where the info came from...don't print it..it is 400 + pages.

This states we have the right to prevent an employee from concealed or open carry of a weapon.

Could you get an answer and email it back to me please

Al

FIREARMS AND AMMUNITION

Act 319 of 1990

AN ACT to prohibit local units of government from imposing certain restrictions on the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunition for pistols or other firearms, or components of pistols or other firearms. History: 1990, Act 319, Eff. Mar. 28, 1991.

The People of the State of Michigan enact:

123.1101 Definitions.

Sec. 1. As used in this act:

“*Act of 1931*” means the Act of 1931, being section 750.222 of the Michigan Compiled Laws. History: 1990, Act 319, Eff. Mar. 28, 1991.

“*Public Act of 1931*” means the Act of 1931, being section 750.222 of the Michigan Compiled Laws. History: 1990, Act 319, Eff. Mar. 28, 1991.

123.1102 Regulation of pistols or other firearms.

Sec. 2. A local unit of government shall not impose special taxation on, enact or enforce any ordinance or regulation pertaining to, or regulate in any other manner the ownership, registration, purchase, sale, transfer, transportation, or possession of pistols or other firearms, ammunition for pistols or other firearms, or components of pistols or other firearms, except as otherwise provided by federal law or a law of this state.

History: 1990, Act 319, Eff. Mar. 28, 1991.

123.1103 Permissible prohibitions or regulation.

Sec. 3. **This act does not prohibit a local unit of government from doing either of the following:**

(a) Prohibiting or regulating conduct with a pistol or other firearm that is a criminal offense under state law.

(b) Prohibiting or regulating the transportation, carrying, or possession of pistols and other firearms by employees of that local unit of government in the course of their employment with that local unit of government. History: 1990, Act 319, Eff. Mar. 28, 1991.

123.1104 Prohibiting discharge of pistol or other firearm.

Sec. 4. This act does not prohibit a city or a charter township from prohibiting the discharge of a pistol or other firearm within the jurisdiction of that city or charter township. History: 1990, Act 319, Eff. Mar. 28, 1991.

123.1105 Conditional effective date.

Sec. 5. **This act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law: *Have these laws been passed?***

(a) House Bill No. 6009.

(b) House Bill No. 6010. History: 1990, Act 319, Eff. Mar. 28, 1991. Compiler's Notes: House Bill No. 6009, referred to in this section, was filed with the Secretary of State December 20, 1990, and became P.A. 1990, No. 320, Eff. Mar. 28, 1991. House Bill No. 6010, also referred to in this section, was filed with the Secretary of State December 20, 1990, and became P.A. 1990, No. 321, Eff. Mar. 28, 1991.

Ron Wruble

From: Al kleinknecht [akdrives@yahoo.com]
Sent: Monday, October 10, 2016 11:10 AM
To: Ron Wruble
Subject: Re: Firearms on the job

On Monday, October 10, 2016 10:23 AM, Ron Wruble <rwuble@harborbeach.com> wrote:

Good Morning John,
Please see attachment. I would like you to send me a letter citing this law and any other that pertains to an employer's rights in regard to firearms on the job.
Please call me first, it will be easier for me to communicate what the Council is looking for.
Thank you,

Ron Wruble
City Director
City of Harbor Beach
989-551-3393
rwuble@harborbeach.com

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Monday, October 10, 2016 9:35 AM
To: 'ferrisschwedler@gmail.com'
Subject: FW: Harbor Beach FOIA Request

Good Morning John,
If you have an opportunity to read these e-mails. Please call me.
I have to respond to this person today.
Ron

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Friday, October 07, 2016 4:57 PM
To: Ron Wruble
Cc: Gary Booms; MiOC Board; Dean Greenblatt
Subject: Re: Harbor Beach FOIA Request

Mr. Wruble,

Thank you for your response.

Your response and the payment you have requested is wildly unlawful. I urge you to confer with council at your soonest convenience and review the relevant statutes.

I look forward to a revised response that complies with the FOIA.

Tom Lambert
President
Michigan Open Carry, Inc.

On Fri, Oct 7, 2016 at 1:44 PM, Ron Wruble <rwruble@harborbeach.com> wrote:

Mr. Lambert,

This e-mail is in response to your request for information pursuant to the Michigan Freedom of Information Act.

I have determined that it will take me a minimum of 3 hours and City Clerk Leslie Woycehoski a minimum of

2 hours to collect the information you have requested. The City Director's compensation, including benefits, is

\$55.09 per hour. The Clerk's total compensation, including benefits, is \$43.30 per hour. The total cost to produce the information is

\$251.87. You will need to have payment into City Hall prior to the information being released in the form of cash or money order.

I checked with Mayor Booms (who is also the FOIA Officer for the City) he indicated that the City will not waive the

cost for the FOIA request.

Please let me know how you want to proceed. The Clerk and I have blocked off time in our schedules to produce the Information you requested on Monday, so we can meet your demand of Tuesday, October 11th.

Ron Wruble

City Director

City of Harbor Beach

989-551-3393

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 03, 2016 5:52 PM
To: rwruble@harborbeach.com; lwoycehoski@harborbeach.com
Cc: MiOC Board
Subject: Harbor Beach FOIA Request

October 3rd, 2016

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, in relation to resolution # 2016-92.
- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, from August 1st, 2016 through today October 3rd, 2016, in relation to the City's policy on firearms carried by employees.
- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert

President

Michigan Open Carry, Inc.

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Monday, October 10, 2016 10:21 AM
To: 'ferrisschwedler@gmail.com'
Cc: 'Gary Booms'; 'Al kleinknecht'
Subject: Firearms on the job
Attachments: Employee Law in Michigan An Employer's Guide.pdf

Good Morning John,

Please see attachment. I would like you to send me a letter citing this law and any other that pertains to an employer's rights in regard to firearms on the job.

Please call me first, it will be easier for me to communicate what the Council is looking for.

Thank you,

Ron Wruble
City Director
City of Harbor Beach
989-551-3393
rwruble@harborbeach.com

Employment Law in Michigan: An Employer's Guide

Second Edition
April 2016 Update

EDITED BY

Richard J. Seryak
Claudia R. Ellmann
Daniel D. Kopka



THE INSTITUTE OF CONTINUING LEGAL EDUCATION

ANN ARBOR, MI

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ANN ARBOR, MI

test does not run afoul of discrimination laws. See, e.g., *Chaney v Southern Ry Co*, 847 F2d 718 (11th Cir 1988).

8. Aptitude, Personality, and Honesty Testing

§13.26 Many employers use a variety of written tests to determine the suitability of applicants for specific positions. These tests may pose a danger for the employer. There have been numerous legal challenges alleging that these tests tend to discriminate against certain protected groups. One type of allegation is that they are used to intentionally discriminate against minority groups. *Baker v Columbus Mun Separate Sch Dist*, 462 F2d 1112 (5th Cir 1972); *Crockett v Virginia Folding Box Co*, 61 FRD 312 (ED Va 1974). The more common legal challenge, however, is that these tests inadvertently result in a disproportionate percentage of minority applicants being disqualified. *Watson v Fort Worth Bank & Trust*, 487 US 977 (1988). See also §1.34.

B. Supervision to Prevent or Control Violence

1. Educating Employees to Contact the Human Resources Department

§13.27 Every employee should know where and how to report potentially violent situations. Thus, it is crucial that the employer tell all employees to contact human resources personnel or other designated management employees when they become aware of any threats or questionable behavior by coemployees, regardless of how serious they believe the threats to be. Employees must be assured that their reports will be treated seriously and handled in a confidential and professional manner. Employees should also be educated as to the various warning signs for potential violence, further discussed in §13.29.

Once a potential problem is reported, the employer should take formal action to address the threat, even if that action consists only of discussing the potential problem with the reporting employee, documenting the discussion, concluding in writing that no other action is warranted, and documenting the reasons for the conclusion.

2. Workplace Violence Policies and Concealed Weapons Permits

§13.28 MCL 28.421 et seq. makes it fairly easy for Michigan residents to obtain a permit for carrying a concealed weapon (CCW). Under the law, county gun boards are required to issue CCW permits to any citizen at least 21 years old who has no felony convictions or any history of mental illness. The law expressly permits employers to prohibit employees from carrying a concealed firearm while at work. However, an employer cannot prohibit an employee from actually obtaining a CCW permit or prohibit the employee from carrying a concealed weapon outside of the employer's property.

In light of this easing of CCW permits, employers should consider adopting written policies prohibiting their employees from carrying a concealed weapon while at the workplace. Policies banning concealed weapons while on company property or on company business will reduce the possibility of serious workplace

on any weapon

violence and help reduce employer liability. A weapons ban policy should be inserted in every employee handbook and should also be part of a larger comprehensive program to prevent workplace violence. For an analysis of a similar concealed weapons law and potential employer liability, see Tanja Lueck Thompson, Note, *Weapons in the Workplace: The Effect of Tennessee's Concealed Weapons Statute on Employer Liability*, 28 U Mem L Rev 281 (1997).

3. Signs of Potential Workplace Violence

§13.29 Employers and their employees should be alert to the warning signs of potential workplace violence, including the following:

- threats
- threatening actions
- major changes in habits
- the expression of unusual or bizarre thoughts
- a fixation with weapons
- appearance of being on the verge of committing a violent act
- a history of violence
- a romantic obsession
- depression
- chemical dependency (including alcohol use)
- severe personal problems, such as a divorce, death in the family, or financial problems
- mental health problems
- exhibiting "loner" behavior
- externalizing blame for disappointments
- past military service
- proselytizing

Although the exhibition of one or more of these characteristics does not mean that a violent action will take place, the possibility of a violent occurrence should be considered. If the threat of violent action cannot be eliminated as unlikely, the employer should conduct an investigation immediately.

4. Taking Immediate Action Once a Problem Comes to Light

§13.30 The employer must be certain to take all threats seriously and conduct a thorough investigation of any reported threats. In investigating threats, the employer may wish to convene a threat-assessment response team, consisting of a representative from the human resources department, line management, a psychological consultant, and legal counsel. In some situations, such as a simple misunderstanding between two employees, the employer may decide to include only the immediate supervisor and a human resources person.

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Monday, October 10, 2016 8:03 PM
To: 'ferrisschwedler@gmail.com'
Cc: 'Gary Booms'
Subject: FW: Harbor Beach FOIA Request

Hi John,

Could you reply to this person on this FOIA request.

I reviewed the information we have, the information you sent me and Section 4 what he cites.

I believe we are justified in requesting what we have. The information requested needs to be e-mailed tomorrow. That will not happen, because we cannot agree on fees. We need an extension to comply.

The City needs to be reimbursed for the time involved in complying with their request.

What a waste of time, energy and money. It is so frustrating.

Thanks,

Ron

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 10, 2016 4:12 PM
To: Ron Wruble
Cc: Gary Booms; ferrisschwedler@gmail.com; MIOC Board; Dean Greenblatt
Subject: Re: Harbor Beach FOIA Request

Mr. Wruble,

I am pleased you have already started gathering the information. Thank you.

As to the fees you wish to charge, with respect I again implore you to review the entire FOIA, including all of Section 4, with counsel and comply with it fully. If you wish to charge a fee for the completion of this request, then there are numerous burdens you must meet, almost none of which you have. If you insist on charging a fee in a non-compliant manner, then I will interpret such as a denial of my request.

At this time, with both the information you have and have not provided, I consent to a fee of \$0 for the completion of my request.

I again look forward to a response that complies with the FOIA.

Thank you,

Tom Lambert
President
Michigan Open Carry, Inc.

On Mon, Oct 10, 2016 at 12:30 PM, Ron Wruble <rwruble@harborbeach.com> wrote:

Mr. Lambert,

You are partially correct. I checked the FOIA Procedures and Guidelines and had it verified by the City's Attorney.

We can only charge at the rate of the person with the lowest compensation that is qualified to prepare the information.

That person is the Deputy Clerk. Her total compensation with benefits is \$38.02. The Clerk and I will be preparing the information.

It will be taking in excess of five hours to compile, but now instead of a cost of \$251.87 it will be reduced to \$190.10.

The Deputy Clerks compensation of \$38.10 x 5 hours. There will be no copying charge. Let me know how to proceed.

I already started gathering the information. We may need an extension from Tuesday's deadline, because we are short

staffed currently, because of a scheduled day off and another person on maternity leave.

Ron Wruble

City Director

City of Harbor Beach

From: Tom Lambert [mailto:tlambert@miopencarry.org]

Sent: Friday, October 07, 2016 4:57 PM

To: Ron Wruble

Cc: Gary Booms; MiOC Board; Dean Greenblatt

Subject: Re: Harbor Beach FOIA Request

Mr. Wruble,

Thank you for your response.

Your response and the payment you have requested is wildly unlawful. I urge you to confer with council at your soonest convenience and review the relevant statutes.

I look forward to a revised response that complies with the FOIA.

Tom Lambert

President

Michigan Open Carry, Inc.

On Fri, Oct 7, 2016 at 1:44 PM, Ron Wruble <rwruble@harborbeach.com> wrote:

Mr. Lambert,

This e-mail is in response to your request for information pursuant to the Michigan Freedom of Information Act.

I have determined that it will take me a minimum of 3 hours and City Clerk Leslie Woycehoski a minimum of

2 hours to collect the information you have requested. The City Director's compensation, including benefits, is

\$55.09 per hour. The Clerk's total compensation, including benefits, is \$43.30 per hour. The total cost to produce the information is

\$251.87. You will need to have payment into City Hall prior to the information being released in the form of cash or money order.

I checked with Mayor Booms (who is also the FOIA Officer for the City) he indicated that the City will not waive the cost for the FOIA request.

Please let me know how you want to proceed. The Clerk and I have blocked off time in our schedules to produce the information you requested on Monday, so we can meet your demand of Tuesday, October 11th.

Ron Wruble

City Director

City of Harbor Beach

989-551-3393

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 03, 2016 5:52 PM
To: rwruble@harborbeach.com; lwoycehoski@harborbeach.com
Cc: MiOC Board
Subject: Harbor Beach FOIA Request

October 3rd, 2016

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, in relation to resolution # 2016-92.
- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, from August 1st, 2016 through today October 3rd, 2016, in relation to the City's policy on firearms carried by employees.
- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert

President

Michigan Open Carry, Inc.

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Friday, October 14, 2016 1:33 PM
To: 'ferrisschwedler@gmail.com'
Subject: FOIA HB

Hello John,

This is for your assistant.

The Deputy Clerk's wage is \$24.02 / hour. Health Insurance \$7.91 / hour, MERS pension \$3.77, Social Security \$1.86. Total compensation is \$37.54. The amount of \$38.02 that was requested included some OT. After looking at the FOIA Information, I believe we can only charge \$36.03. The wages plus benefits capped at 50%.

Thank you,

Ron Wruble
City Director
City of Harbor Beach
989-551-3393
rwruble@harborbeach.com

Ron Wruble

From: Ferris & Schwedler, P.C. [ferrisschwedler@gmail.com]
Sent: Monday, October 10, 2016 4:34 PM
To: 'Ron Wruble'
Subject: [BULK] FOIA Fees
Attachments: 161010150121.PDF

Importance: Low

Sir,

Attached is the FOIA Fees you requested.

Hilary L. Fox
Legal Assistant to John T. Ferris
Legal Assistant to Julianne M. Ferris

Ferris & Schwedler, P.C.

237 E. Huron Avenue, Bad Axe, Michigan 48413
Telephone: (989) 269-9571
Fax: (989) 269-6484
ferrisschwedler@gmail.com

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roads, which is a critical component of economic prosperity for Michigan and its communities. It is a decision that voters will ultimately decide our roads are worth the investment and approve a sales tax increase.

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Major changes to FOIA

A bill making major changes to Michigan's Freedom of Information Act (FOIA) was passed in the final hours of the 2013-14 legislative session and is currently pending signature by the governor. The changes become effective July 1, 2015.

House Bill 4001, sponsored by Rep. Mike Shirkey (R-Clarklake), was originally introduced to provide more protections for those seeking public records and to prevent municipalities from charging "egregious fees" for FOIA requests.

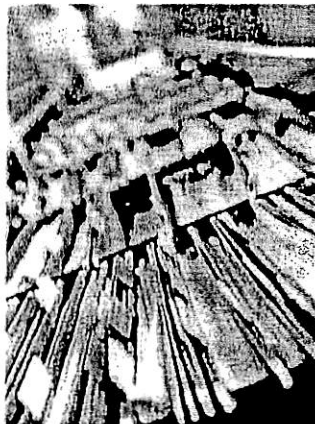
MTA did not support the final bill due to the limitation of recouping all costs associated with completing FOIA requests that townships—and ultimately taxpayers—will have to absorb. However, the Association was successful in working with the sponsor to add amendments that soften the blow to local units.

FOIA provides the right to access public information and sets guidelines for how such information requests must be handled. Currently, local units of government may charge fees to recoup costs for staff time used to search, sort and redact documents, as well as perform other tasks.

Forms/fees/labor costs

The final language contained in HB 4001 permits local units to charge fees, but limits the fee amount that can be charged and requires the use of a standard form providing detailed itemization of fees. Further, the legislation prohibits labor costs from exceeding the hourly rate of the lowest-paid employee capable of performing the task or including overtime costs unless the latter is agreed to by the requestor. The fee components to be itemized on a standard form include costs for:

1. Labor involved with searching, locating and examining public records in conjunction with the written request and charged in 15-minute increments—with partial increments rounded down.
2. Labor involved with separating, deleting and redacting exempt information, and charged in 15-minute increments—with partial increments rounded down.
3. Labor involved with duplicating and copying records, including making digital copies or transferring digital public records and charged in time increments of the public body's choosing but partial increments must be rounded down.
4. Actual and most economical cost of nonpaper physical media (i.e., computer discs or tapes) if requested by the individual (see electronic requests at right).
5. Duplication and copying costs with copy fees limited to 10 cents per page for 8 1/2 x 11-inch or 8 1/2 by 14-inch documents.
6. Actual postage costs.



One key MTA amendment added will allow townships to now recover a portion of costs when review by their attorney is necessary to review and redact exempt information from a document. The language permits itemized costs—not to exceed six times the state minimum wage as long as the name of the contracted person or firm is included in the itemization of fees. Currently, when a township must engage its attorney to review documents pertaining to a FOIA request, taxpayers end up paying the cost as the attorney is contracted, versus an employee of the township.

Another change to the final version allows a public body to add up to 50 percent of the applicable labor charge for fringe benefits. If included, the itemization must clearly note the percentage multiplier used for the benefits and cannot be more than the actual fringe benefits costs. If the requestor agreed to overtime wages, fringe benefit costs could not be added to any overtime charges.

Procedures/guidelines

A township is required to establish procedures and guidelines to implement HB 4001 that include a written public summary outlining the specific procedures and guidelines for submitting requests, fee calculation, and the ability to challenge or appeal a response. If the township maintains an Internet presence, the procedures/guidelines must be posted on the township's website. The procedures/guidelines are required to be provided in response to a written request or a request made in person, along with the standard form with detailed fee itemization. If a township fails to provide the guidelines and form, it could not require a deposit or charge fees for the FOIA request.

Electronic requests

Under the legislation, a FOIA requestor can ask that public records be provided in nonpaper, electronic form and sent to the requestor electronically. MTA was successful in having an amendment approved that would exempt local units from that requirement if they do not have the technological capability (i.e., scanners, Internet presence) to fulfill such a request.

Another township amendment addresses electronic FOIA requests that might go to a spam or junk mail folder. If this were to occur, the time period for the request begins one day after the public body becomes aware of the electronic request.

If a township maintains an official Internet presence, any public records available to the general public on the website at the time the FOIA request is made are exempt from any charges. A public body is allowed to direct the requesting party in the written response to the specific location on the website where the requested information is located.

Unclaimed requests

A new section addresses situations when those who make FOIA requests do not pick up their documents or pay the agreed-upon costs. Under the final language, local units would be permitted to require a deposit of up to 100 percent of the estimated costs before beginning another public records search for a second request within 365 days.

This is only allowed if all of the following apply: the final fee for the prior request was not more than 105 percent of the estimated fee; the public records made available contained the requested information and are still in the public body's possession; the public records were made available subject to payment within the estimated time frame; 90 days have passed since the individual was notified in writing that the public records were available; the requestor is unable to show proof of prior payment; and the public body calculates an itemization as the basis for the current request's estimated fee deposit. MTA was successful in having a condition removed that would have required the requestor to agree in writing to pay the fee—as it would be extremely unlikely that anyone would agree to do so if it prevented them from making additional requests during that year.

Penalties/court costs

If a public body fails to respond to a written request as required, the charges for labor costs must be reduced by 5 percent for each day it exceeds the time permitted, with a maximum reduction of 50 percent, if either 1) the late response was intentional or 2) the FOIA request was conveyed within the first 250 words of the request.

If a requesting party believes fees charged for a FOIA request exceed the amount permitted, the party may file a written appeal to the head of the local unit if they provide an appeal process or commence civil action in circuit court. For townships, this would mean an appeal would be made to the township board.

If the local unit provides an appeal process, the head of the public body must respond within 10 business days in one of the following ways: 1) waiving the fee, 2) reducing the fee and issuing a written determination, 3) upholding the fee and issuing a written determination or 4) issuing notice of a 10-day extension. If a court finds in favor of the requesting party, the court may award reasonable attorney fees, costs and disbursements.

If the public body is found to have acted arbitrarily and capriciously in setting fees, the court may award punitive damages of \$1,000. If a court finds that the public body willfully or intentionally failed to comply or acted in bad faith, a civil fine of \$2,500 up to a maximum of \$7,500 would be imposed for each occurrence.

Ron Wruble

From: Ferris & Schwedler, P.C. [ferrisschwedler@gmail.com]
Sent: Tuesday, October 11, 2016 4:37 PM
To: tlambert@miopencarry.org; 'Ron Wruble'
Subject: FOIA request
Attachments: 161011123340.PDF

Please see the attachment.

Kelli L. McGrath
Legal Assistant to John T. Ferris

Ferris & Schwedler, P.C.

237 E. Huron Avenue, Bad Axe, Michigan 48413
Telephone: (989) 269-9571
Fax: (989) 269-6484
ferrisschwedler@gmail.com

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FERRIS & SCHWEDLER, P.C.

ATTORNEYS AND COUNSELORS AT LAW

237 EAST HURON AVENUE

BAD AXE, MICHIGAN 48413

(989) 269-9571

FAX: (989) 269-6484

JOHN T. FERRIS

JOHN D. SCHWEDLER

JULIENNE M. FERRIS

Mr. Tom Lambert:

Please be advised that I am the Attorney for the City of Harbor Beach and this letter is in response to your FOIA request on October 3, 2016. Thank you for inquiring into the cost of the City of Harbor Beach complying with your FOIA request. The City of Harbor Beach is allowed to charge a fee that doesn't exceed the hourly rate of the lowest-paid employee capable of performing the task.

Under MCLA 15.234:

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 shall 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 shall 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.

The Deputy Clerk for the City of Harbor Beach is compensated at an hourly rate of \$38.02 and the total cost of producing the FOIA request would be approximately \$190.10. The information that has been requested will take a total of five hours for city employees to compile. In certain circumstances the FOIA coordinator for the City of Harbor Beach may waive the fees associated with FOIA requests. For your request, the FOIA request is not considered to be

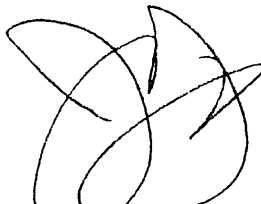
primarily benefitting the general public and that request to waive fees has been denied by the FOIA coordinator. This denial is related to a waiver of fees and not of your FOIA request.

Enclosed is a summary of our FOIA policy and a cost itemized fee sheet for your request. The City of Harbor Beach is able to produce the request after the established fee has been paid.

If you have any questions regarding the above, please feel free to call me.

Sincerely yours,

FERRIS & SCHWEDLER, P.C.



By: John T. Ferris

JTF/hlf

CITY OF HARBOR BEACH

Public Summary of FOIA Procedures and Guidelines

**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.**

The people shall be informed so that they may fully participate in the democratic process.

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is the Written Public Summary of the City's FOIA Procedures and Guidelines relevant to the general public.

This is only a summary of the City's FOIA Procedures and Guidelines. For more details and information, copies of the City's FOIA Procedures and Guidelines are available at no charge at any City office and on the City's website: www.harborbeach.com.

1. How do I submit a FOIA request to the City?

- A request must sufficiently describe a public record so as to enable the City to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the City in providing a prompt response.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the City may be submitted on the City's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.
 - Any verbal request will be documented by the City on the City's FOIA Request Form.
 - No specific form to submit a written request is required. However a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the City's website at www.harborbeach.com, and at City Hall.
- Written requests may be delivered to the City Hall in person or by mail at 766 State Street, Harbor Beach, MI 48441.
- Requests may be faxed to: (989) 479-3343. To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.
- Requests may be emailed to: lwoycehoski@harborbeach.com. To ensure a prompt response, email requests should contain the term "FOIA" or "FOIA Request" in the subject line.

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

- Within 5 business days after receiving a FOIA request the City will issue a response. If a request is received by fax or email, the request is deemed to have been received on the following business day. The City will respond to your request in one of the following ways:
 - - Grant the request,
 - Issue a written notice denying the request,
 - Grant the request in part and issue a written notice denying in part the request,
 - Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond, or
 - Issue a written notice indicating that the public record requested is available at no charge on the City's website
- If the request is granted, or granted in part, the City will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.
- If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the City will require a deposit before processing the request.

3. What are the City's deposit requirements?

- If the City has made a good faith calculation that the total fee for processing the request will exceed \$50.00, the City will require that you provide a deposit in the amount of 50% of the total estimated fee. When the City requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.
- If the City receives a request from a person who has not paid the City for copies of public records made in fulfillment of a previously granted written request, the City will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request 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's possession;
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by the City to provide the records;
 - Ninety (90) days have passed since the City 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; and
 - The City has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The City will not require the 100% 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;
 - The City is subsequently paid in full for all applicable prior written requests; or

- o Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to the City.

4. How does the City calculate FOIA processing fees?

The Michigan FOIA statute permits the City 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.
- 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.
- 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's website if you ask for the City 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's website if you ask for the City to make copies.
- The cost to mail or send a public record to a requestor.

Labor Costs

- 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 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. City 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)

A labor cost will not be charged for the 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. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in the particular instance. The City must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

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

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the City has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Paper Copies

- 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 will reflect the actual cost of reproduction.

Mailing Costs

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

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 Council may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

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

The City will discount the first \$20.00 of fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or

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

You are not eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the City twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is sworn statement. For your convenience, the City has provided an Affidavit of Indigence for the waiver of FOIA fees on the back of the City FOIA Request Form, which is available on the City's website: www.harborbeach.com.

6. May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is 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, may receive a \$20.00 discount if the request meets all of the following requirements in the Act:

- 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.

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

Appeal of a Denial of a Public Record

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the City Council by filing a written appeal of the denial with the office of the City Director.

The appeal must be in writing, specifically state the word "appeal," and identify the reason or reasons you are seeking a reversal of the denial. You may use the City FOIA Appeal Form (To Appeal a Denial of Records), which is available on the City's website: www.harborbeach.com.

Within 10 business days of receiving the appeal the City Council 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.

Whether or not you submitted an appeal of a denial to the City Council, you may file a civil action in Huron County Circuit Court within 180 days after the City's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs and

disbursements. If the court determines that the City acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.

Appeal of an Excess FOIA Processing Fee

If you believe that the fee charged by the City to process your FOIA request exceeds the amount permitted by state law, you must first appeal to the City Council by filing a written appeal for a fee reduction to the office of the City Director.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. You may use the City FOIA Appeal Form (To Appeal an Excess Fee), which is available at the City Hall and on the City's website: www.harborbeach.com.

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

- Waiving the fee;
- Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issue 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 Council will respond to the written appeal.

Within 45 days after receiving notice of the City Council's determination of the processing fee appeal, you may commence a civil action in Huron County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the City acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.

Freedom of Information Act Request Detailed Cost Itemization

Date: October 11, 2016 Prepared for Request No.: _____ Date Request Received: October 4, 2016

<p>The following costs are being charged in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the City's FOIA Policies and Guidelines.</p>			
<p>1. Labor Cost for Copying / Duplication</p> <p>This is the cost of labor directly associated with duplication of publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the Internet or other electronic means as stipulated by the requestor.</p> <p>This shall not be more than the hourly wage of the City's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments all partial time increments must be rounded down. <i>If the number of minutes is less than one increment, there is no charge.</i></p> <p>Hourly Wage Charged: \$38.02 Charge per increment: \$ 9.50</p> <p>OR</p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____ Charge per increment: \$ _____</p> <p>Multiply the hourly wage by the percentage multiplier: _____ %</p> <p>(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>		<p>To figure the number of increments, take the number of minutes: _____, divide by 15 -minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x 8 =</p>	<p>1. Labor Cost</p> <p>\$ 76</p>
<p>2. Labor Cost to Locate:</p> <p>This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____</p> <p>_____</p> <p>_____</p> <p>The City will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Wage Charged: \$ 38.02 Charge per increment: \$ 9.50</p> <p>OR</p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____ Charge per increment: \$ _____</p> <p>Multiply the hourly wage by the percentage multiplier: _____ %</p> <p>(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>		<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x 12 =</p>	<p>2. Labor Cost</p> <p>\$ 114</p>

3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a City employee. If contracted, use No. 3b instead).

The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____

This is the cost of labor of a City employee, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the City's lowest-paid employee capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____

Charge per increment: \$ _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____

OR

Multiply the hourly wage by the percentage multiplier: _____ %
(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.

Charge per increment: \$ _____

☐ Overtime rate charged as stipulated by Requestor (*overtime is not used to calculate the fringe benefit cost*)

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down.
Enter below:

Number of increments

3a. Labor Cost

x _____ =

\$ _____

3b. Contracted Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a instead.)

The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically:

As this City does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a contractor (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to 6 times the state minimum hourly wage rate of _____ (currently \$8.15).

Name of contracted person or firm: _____

These costs will be estimated and charged in 15-minute time increments (*must be 15-minutes or more*); all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Cost Charged: \$ _____

Charge per increment: \$ _____

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down to: _____ increments.
Enter below:

Number of increments

3b. Labor Cost

x _____ =

\$ _____

4. Copying / Duplication Cost:

Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (for example, 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).

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 1/2 x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

The cost of paper copies must be calculated as a total cost per sheet of paper. The fee cannot 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 City must utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

Number of
Sheets:

x _____ =
x _____ =

Costs:

\$ _____
\$ _____

x _____ =

\$ _____

No. of Items:

x _____ =

\$ _____

4. Total
Copy Cost

\$ 0

5. Mailing Cost:

The City will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The City may charge for the least expensive form of postal delivery confirmation.
- The City cannot charge more for expedited shipping or insurance unless specifically requested by the requestor.*

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp
\$ _____ per pound
\$ _____ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

☐ * Requestor has requested expedited shipping or insurance

Number of
Envelopes or
Packages:

x _____ =

Costs:

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

x _____ =

\$ _____

5. Total
Mailing Cost

\$ 0

6a. Copying/Duplicating Cost for Records Already on City's 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 non-paper physical digital media, the City will provide the public records in the specified format and may charge copying costs to provide those copies.

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 1/2 x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

☐ Requestor has stipulated that some / all of the requested records that are already available on the City's website be provided in a paper or non-paper physical digital medium.

Number of
Sheets:

x _____ =

x _____ =

x _____ =

No. of Items:

x _____ =

Costs:

\$ _____

\$ _____

\$ _____

\$ _____

6a. Web
Copy Cost

\$ 0

6b. Labor Cost for Copying/Duplicating Records Already on City's Website:

This shall not be more than the hourly wage of the City's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in **15-minute time increments** (i.e.: 15-minutes or more); all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____

OR

Charge per increment: \$ _____

Hourly Wage with Fringe Benefit Cost: \$ _____

OR

Charge per increment: \$ _____

Multiply the hourly wage by the percentage multiplier: _____ %
and add to the hourly wage for a total per hour rate.

The City may use a fringe benefit multiplier greater than the 50% limitation, not to exceed the actual costs of providing the information in the specified format.

☐ Overtime rate charged as stipulated by Requestor

To figure the
number of
increments, take
the number of
minutes:

_____, divide by
15 -minute
increments, and
round down.
Enter below:

Number of
increments

x _____ =

6b. Web
Labor Cost

\$ 0

6c. Mailing Cost for Records Already on City's Website:

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp / per pound / per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

☐ * Requestor has requested expedited shipping or insurance

Number:

x _____ =

x _____ =

x _____ =

x _____ =

Costs:

\$ _____

\$ _____

\$ _____

\$ _____

6c. Web
Mailing Cost

\$ 0

Subtotal Fees Before Waivers, Discounts or Deposits:☒ Cost estimate
☐ Bill**Estimated Time Frame to Provide Records:**

_____ (days or date)

The time frame estimate is nonbinding upon the City, but the City is providing the estimate in good faith. Providing an estimated time frame does not relieve the City from any of the other requirements of this act.

1. Labor Cost for Copying: \$ 76.00
2. Labor Cost to Locate: \$ 114.00
3a. Labor Cost to Redact: \$ _____
3b. Contract Labor Cost to Redact: \$ _____
4. Copying/Duplication Cost: \$ _____
5. Mailing Cost: \$ _____
6a. Copying/Duplication of Records on Website: \$ _____
6b. Labor Cost for Copying Records on Website: \$ _____
6c. Mailing Costs for Records on Website: \$ _____

Fees Subtotal: \$ 190.00**Waiver: Public Interest**

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 City 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.

☐ All fees are waived **OR** ☐ All fees are reduced by: _____%**Subtotal Fees After Waiver:** \$ _____**Discount: Indigence**

A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this act and who:

- 1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, **OR**
2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

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 from the same public body twice during that calendar year, **OR**
(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.

☐ Eligible for Indigence Discount**Subtotal Fees After Discount (subtract \$20):** \$ _____**Discount: Nonprofit Organization**

A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by 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 and the federal Protection and Advocacy for Individuals with Mental Illness Act, 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 Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.
(iii) Is accompanied by documentation of its designation by the state, if requested by the City.

☐ Eligible for Nonprofit Discount**Subtotal Fees After Discount (subtract \$20):** \$ _____

<p>Deposit: <u>Good Faith</u> The City may require a good-faith deposit in either its initial response or a subsequent response 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. The deposit cannot exceed 1/2 of the total estimated fee.</p> <p style="text-align: right;">Percent of Deposit: 50%</p>	<p>Date Paid: _____</p>	<p>Deposit Amount Required:</p> <p>\$ 95.00</p>
<p>Deposit: <u>Increased Deposit Due to Previous FOIA Fees Not Paid In Full</u> After a City has granted and fulfilled a written request from an individual under this act, if the City has not been paid in full the total amount of fees for the copies of public records that the City made available to the individual as a result of that written request, the City may require an increased estimated fee 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:</p> <p>(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 City's possession. (c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request. (d) Ninety (90) days have passed since the City 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 City. (f) The City calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.</p> <p>A City can no longer require an increased estimated fee deposit from an individual if ANY of the following apply:</p> <p>(a) The individual is able to show proof of prior payment in full to the City, OR (b) The City is subsequently paid in full for the applicable prior written request, OR (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the City.</p>	<p>Date Paid: _____</p>	<p>Percent Deposit Required: _____%</p> <p>Deposit Required: \$ _____</p>
<p>Late Response <u>Labor Costs</u> Reduction If the City does not respond to a written request in a timely manner as required under MCL 15.235(2), the City must do the following:</p> <p>(a) Reduce the charges for labor costs otherwise permitted by 5% for each day the City exceeds the time permitted for a response to the request, with a maximum 50% reduction, if EITHER of the following applies:</p> <p>(i) The late response was willful and intentional, OR</p> <p>(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.</p>	<p>Number of Days Over Required Response Time: _____</p> <p>Multiply by 5%</p> <p>= Total Percent Reduction: _____</p>	<p>Total Labor Costs</p> <p>\$ _____</p> <p>Minus Reduction</p> <p>\$ _____</p> <p>= Reduced Total Labor Costs</p> <p>\$ _____</p>
<p>The Public Summary of the City's FOIA Procedures and Guidelines is available free of charge from: Website: www.harborbeachmi.org Email: _____ Phone: 989.479.3363</p> <p>Address: 766 State Street, Harbor Beach, Michigan, 48441</p> <p>Request Will Be Processed, But <u>Balance Must Be Paid Before</u> Copies May Be Picked Up, Delivered or Mailed</p>	<p>Date Paid: _____</p>	<p>Total Balance Due:</p> <p>\$ 190.00</p>

Ron Wruble

From: Ferris & Schwedler, P.C. [ferrisschwedler@gmail.com]
Sent: Friday, October 14, 2016 3:56 PM
To: tlambert@miopencarry.org
Cc: rwruble@harborbeach.com
Subject: [BULK] FOIA
Attachments: 161014152253.PDF

Importance: Low

Please see the attached letter from Mr. Ferris.

Hilary L. Fox
Legal Assistant to John T. Ferris
Legal Assistant to Julianne M. Ferris

Ferris & Schwedler, P.C.

237 E. Huron Avenue, Bad Axe, Michigan 48413
Telephone: (989) 269-9571
Fax: (989) 269-6484
ferrisschwedler@gmail.com

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FERRIS & SCHWEDLER, P.C.

ATTORNEYS AND COUNSELORS AT LAW
237 EAST HURON AVENUE
BAD AXE, MICHIGAN 48413

(989) 269-9571

FAX: (989) 269-6484

JOHN T. FERRIS
JOHN D. SCHWEDLER
JULIENNE M. FERRIS

October 14, 2016

Mr. Lambert:

In regards to the statutory deadline passing, that is incorrect. The City of Harbor Beach's Freedom of Information Act states that when a request is made, the governmental body has 5 days to respond to the request. The State of Michigan's Freedom of Information Act, also, has the same 5 day response time. Here, the city has complied within the allotted time by responding with an email sent on October 11, 2016. In our previously sent email the city was granting your request not denying your request subject to a good faith detailed itemized sheet. Due to the limited staff available to process the request, the employee must take time away from normal work duties at township expense.

City of Harbor Beach Section 3:

Processing a Request Unless otherwise agreed to in writing by the person making the request, the City 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 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 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's website.

MCLA 15.235:

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall 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.

In regards to your concerns about the City of Harbor Beach charging a good faith deposit outside the amount allowed under Michigan's Freedom of Information Act. Our good faith estimate is for the compensation of employees who will be undertaking the retrieval, procurement, copying and/or any other task involved in making the documents available for you.

Harbor Beach FOIA

Section 3: Processing a Request

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 will require a good-faith deposit pursuant to Section 4 of this policy before processing the request.

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 fees. If a request for public records is from a person who has not paid the City 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's possession;
- The public records were made available to the individual, subject to payment, within the time frame estimated by the City 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; and
- The FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

MCLA 15.234:

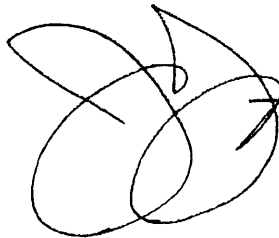
(8) In either the public body's initial response or subsequent response as described under section 5(2)(d), the public body may require a good-faith deposit from the person requesting information before providing the public records to the requestor if the entire fee estimate or charge authorized under 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 shall not exceed 1/2 of the total estimated fee, and a public body's request for a deposit shall include a detailed itemization as

required under subsection (4). The response shall 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.

Enclosed is a summary of the Harbor Beach FOIA policy and a cost itemized sheet for your request. The City of Harbor Beach is able to produce the request after the established fee has been paid.

Sincerely,

FERRIS & SCHWEDLER, P.C.

A handwritten signature in black ink, consisting of several overlapping loops and a final horizontal stroke, representing the name John T. Ferris.

By: John T. Ferris

JTF/hlf

Enclosures

Date: October 11, 2016 Prepared for Request No.: _____ Date Request Received: October 4, 2016

☐ Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)

<p>3a. Employee Labor Cost for <u>Separating Exempt from Non-Exempt (Redacting)</u>:</p> <p><i>(Fill this out if using a City employee. If contracted, use No. 3b instead).</i></p> <p>The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.</p> <p>This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>This is the cost of labor of a City employee, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the City's lowest-paid employee capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. If the number of minutes is less than 15, there is no charge.</p> <div style="display: flex; justify-content: space-between;"> <div> <p>Hourly Wage Charged: \$ _____</p> <p><u>OR</u></p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____</p> <p>Multiply the hourly wage by the percentage multiplier: _____% (up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.</p> </div> <div> <p>Charge per increment: \$ _____</p> <p><u>OR</u></p> <p>Charge per increment: \$ _____</p> </div> </div> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>	<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down.</p> <p>Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>3a. Labor Cost</p> <p>\$ _____</p>

<p>3b. Contracted Labor Cost for <u>Separating Exempt from Non-Exempt (Redacting):</u></p> <p><i>(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a instead.)</i></p> <p>The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.</p> <p>This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically:</p> <p>_____</p> <p>_____</p> <p>As this City does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a contractor (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to 6 times the state minimum hourly wage rate of _____ (currently \$8.15).</p> <p>Name of contracted person or firm: _____</p> <p>These costs will be estimated and charged in 15-minute time increments (<i>must be 15-minutes or more</i>); all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Cost Charged: \$ _____ Charge per increment: \$ _____</p>	<p>To figure the number of increments, take the number of minutes: _____ divide by 15-minute increments, and round down to: _____ increments.</p> <p>Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>3b. Labor Cost</p> <p>\$ _____</p>
<p>4. Copying / Duplication Cost:</p> <p>Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (<i>for example, 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</i>).</p> <p>No more than the <u>actual</u> cost of a sheet of paper, <u>up to maximum 10 cents per sheet</u> for:</p> <ul style="list-style-type: none"> Letter (8 1/2 x 11-inch, single and double-sided): _____ cents per sheet Legal (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet <p>No more than the <u>actual</u> cost of a sheet of paper for <u>other</u> paper sizes:</p> <ul style="list-style-type: none"> Other paper sizes (single and double-sided): _____ cents / dollars per sheet <p><u>Actual and most reasonably economical cost of non-paper physical digital media:</u></p> <ul style="list-style-type: none"> Circle applicable: Disc / Tape / Drive / Other Digital Medium Cost per item: _____ <p>The cost of paper copies <u>must</u> be calculated as a total cost per <u>sheet</u> of paper. The fee <u>cannot exceed</u> 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. <u>A City must utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.</u></p>	<p>Number of Sheets:</p> <p>x _____ =</p> <p>x _____ =</p> <p>x _____ =</p> <p>No. of Items:</p> <p>x _____ =</p>	<p>Costs:</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>4. Total Copy Cost</p> <p>\$ 0</p>

5. Mailing Cost:

The City will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The City *may* charge for the least expensive form of postal delivery confirmation.
- The City *cannot* charge more for expedited shipping or insurance unless specifically requested by the requestor.*

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp
\$ _____ per pound
\$ _____ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

☐ * Requestor has requested expedited shipping or insurance

Number of
Envelopes or
Packages:

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

Costs:

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

5. Total
Mailing Cost

\$ 0

6a. Copying/Duplicating Cost for Records Already on City's 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 non-paper physical digital media, the City will provide the public records in the specified format and may charge copying costs to provide those copies.

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 1/2 x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

☐ Requestor has stipulated that some / all of the requested records that are already available on the City's website be provided in a paper or non-paper physical digital medium.

Number of
Sheets:

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

No. of Items:

x _____ = \$ _____

Costs:

\$ _____

\$ _____

\$ _____

6a. Web
Copy Cost

\$ 0

<p>6b. Labor Cost for Copying/Duplicating Records Already on City's Website:</p> <p>This shall not be more than the hourly wage of the City's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in 15-minute time increments (i.e.: 15-minutes or more); all partial time increments must be rounded down. If the number of minutes is less than 15, there is no charge.</p> <p>Hourly Wage Charged: \$ _____ Charge per increment: \$ _____</p> <p style="text-align: center;"><u>OR</u></p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____ <u>OR</u></p> <p>Multiply the hourly wage by the percentage multiplier: _____ % and add to the hourly wage for a total per hour rate.</p> <p>The City may use a fringe benefit multiplier greater than the 50% limitation, not to exceed the actual costs of providing the information in the specified format.</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor</p>	<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>6b. Web Labor Cost</p> <p>\$ 0</p>
<p>6c. Mailing Cost for Records Already on City's Website:</p> <p style="text-align: right;">Actual Cost of Envelope or Packaging: \$ _____</p> <p style="text-align: right;">Actual Cost of Postage: \$ _____ per stamp / per pound / per package</p> <p style="text-align: right;">Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____</p> <p style="text-align: right;">*Expedited Shipping or Insurance as Requested: \$ _____</p> <p><input type="checkbox"/> * Requestor has requested expedited shipping or insurance</p>	<p>Number:</p> <p>x _____ =</p> <p>x _____ =</p> <p>x _____ =</p> <p>x _____ =</p>	<p>Costs:</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>6c. Web Mailing Cost</p> <p>\$ 0</p>
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><u>Subtotal Fees Before Waivers, Discounts or Deposits:</u></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Estimated Time Frame to Provide Records:</p> <p>October 21, 2016</p> <p>The time frame estimate is nonbinding upon the City, but the City is providing the estimate in good faith. Providing an estimated time frame does not relieve the City from any of the other requirements of this act.</p> </div> </div> <div style="width: 50%;"> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p><input checked="" type="checkbox"/> Cost estimate</p> <p><input type="checkbox"/> Bill</p> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>1. Labor Cost for Copying: \$ 72.08</p> <p>2. Labor Cost to Locate: \$ 108.12</p> <p>3a. Labor Cost to Redact: \$ _____</p> <p>3b. Contract Labor Cost to Redact: \$ _____</p> <p>4. Copying/Duplication Cost: \$ _____</p> <p>5. Mailing Cost: \$ _____</p> <p>6a. Copying/Duplication of Records on Website: \$ _____</p> <p>6b. Labor Cost for Copying Records on Website: \$ _____</p> <p>6c. Mailing Costs for Records on Website: \$ _____</p> <p style="text-align: right; margin-top: 10px;">Fees Subtotal:</p> </div> <div style="width: 35%; text-align: right;"> <p>\$ 180.20</p> </div> </div> </div> </div>		
<p><u>Waiver: Public Interest</u></p> <p>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 City 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.</p> <p><input type="checkbox"/> All fees are waived <u>OR</u> <input type="checkbox"/> All fees are reduced by: _____ %</p>	<p>Subtotal Fees After Waiver:</p> <p>\$ _____</p>	

<p>Discount: <u>Indigence</u> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this act and who:</p> <p>1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, OR</p> <p>2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.</p> <p>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:</p> <p>(i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year, OR</p> <p>(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.</p> <p><input type="checkbox"/> Eligible for Indigence Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p>Discount: <u>Nonprofit Organization</u> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by 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 and the federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets ALL of the following requirements:</p> <p>(i) Is made directly on behalf of the organization or its clients.</p> <p>(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.</p> <p>(iii) Is accompanied by documentation of its designation by the state, if requested by the City.</p> <p><input type="checkbox"/> Eligible for Nonprofit Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p>Deposit: <u>Good Faith</u> The City may require a good-faith deposit in either its initial response or a subsequent response 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. The deposit cannot exceed 1/2 of the total estimated fee.</p> <p>Percent of Deposit: 50%</p>	<p>Date Paid: _____</p>	<p>Deposit Amount Required: \$ 90.10</p>
<p>Deposit: <u>Increased Deposit Due to Previous FOIA Fees Not Paid In Full</u> After a City has granted and fulfilled a written request from an individual under this act, if the City has not been paid in full the total amount of fees for the copies of public records that the City made available to the individual as a result of that written request, the City may require an increased estimated fee 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:</p> <p>(a) The final fee for the prior written request was not more than 105% of the estimated fee.</p> <p>(b) The public records made available contained the information being sought in the prior written request and are still in the City's possession.</p> <p>(c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request.</p> <p>(d) Ninety (90) days have passed since the City notified the individual in writing that the public records were available for pickup or mailing.</p> <p>(e) The individual is unable to show proof of prior payment to the City.</p>		

<p>(f) The City calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.</p> <p>A City can no longer require an increased estimated fee deposit from an individual if ANY of the following apply:</p> <p>(a) The individual is able to show proof of prior payment in full to the City, OR (b) The City is subsequently paid in full for the applicable prior written request, OR (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the City.</p>	<p>Date Paid:</p> <p>_____</p>	<p>Percent Deposit Required:</p> <p>50%</p> <p>Deposit Required:</p> <p>\$ 90.10</p>
<p>Late Response Labor Costs Reduction</p> <p>If the City does not respond to a written request in a timely manner as required under MCL 15.235(2), the City must do the following:</p> <p>(a) Reduce the charges for labor costs otherwise permitted by 5% for each day the City exceeds the time permitted for a response to the request, with a maximum 50% reduction, if EITHER of the following applies:</p> <p>(i) The late response was willful and intentional, OR</p> <p>(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.</p>	<p>Number of Days Over Required Response Time:</p> <p>_____</p> <p>Multiply by 5%</p> <p>= Total Percent Reduction:</p> <p>_____</p>	<p>Total Labor Costs</p> <p>\$ _____</p> <p>Minus Reduction</p> <p>\$ _____</p> <p>= Reduced Total Labor Costs</p> <p>\$ _____</p>
<p>The Public Summary of the City's FOIA Procedures and Guidelines is available free of charge from: Website: www.harborbeach.com Email: _____ Phone: 989.479.3363</p> <p>Address: 766 State Street, Harbor Beach, Michigan, 48441</p> <p>Request Will Be Processed, But <u>Balance Must Be Paid Before</u> Copies May Be Picked Up, Delivered or Mailed</p>	<p>Date Paid:</p> <p>_____</p>	<p>Total Balance Due:</p> <p>\$ 180.20</p>

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any City By-Laws.
- Any City Codes or Ordinances.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 25th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Please make any copies generated under this request available electronically.

Lastly, this request may be considered rescinded in the event the City provides all of the requested information on its website and the City responds indicating the occurrence of such.

Thank you,

Tom Lambert

President

Michigan Open Carry, Inc.

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Friday, October 07, 2016 1:45 PM
To: 'Tom Lambert'
Cc: 'Gary Booms'
Subject: RE: Harbor Beach FOIA Request

Mr. Lambert,

This e-mail is in response to your request for information pursuant to the Michigan Freedom of Information Act. I have determined that it will take me a minimum of 3 hours and City Clerk Leslie Woycehoski a minimum of 2 hours to collect the information you have requested. The City Director's compensation, including benefits, is \$55.09 per hour. The Clerk's total compensation, including benefits, is \$43.30 per hour. The total cost to produce the information is \$251.87. You will need to have payment into City Hall prior to the information being released in the form of cash or money order.

I checked with Mayor Booms (who is also the FOIA Officer for the City) he indicated that the City will not waive the cost for the FOIA request.

Please let me know how you want to proceed. The Clerk and I have blocked off time in our schedules to produce the information you requested on Monday, so we can meet your demand of Tuesday, October 11th.

Ron Wruble
City Director
City of Harbor Beach
989-551-3393

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 03, 2016 5:52 PM
To: rwruble@harborbeach.com; lwoycehoski@harborbeach.com
Cc: MiOC Board
Subject: Harbor Beach FOIA Request

October 3rd, 2016

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, in relation to resolution # 2016-92.
- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, from August 1st, 2016 through today October 3rd, 2016, in relation to the City's policy on firearms carried by employees.
- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert
President
Michigan Open Carry, Inc.

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Monday, October 10, 2016 12:31 PM
To: 'Tom Lambert'
Cc: 'Gary Booms'; 'ferrisschwedler@gmail.com'
Subject: RE: Harbor Beach FOIA Request

Mr. Lambert,

You are partially correct. I checked the FOIA Procedures and Guidelines and had it verified by the City's Attorney. We can only charge at the rate of the person with the lowest compensation that is qualified to prepare the information. That person is the Deputy Clerk. Her total compensation with benefits is \$38.02. The Clerk and I will be preparing the information.

It will be taking in excess of five hours to compile, but now instead of a cost of \$251.87 it will be reduced to \$190.10. The Deputy Clerk's compensation of \$38.10 x 5 hours. There will be no copying charge. Let me know how to proceed. I already started gathering the information. We may need an extension from Tuesday's deadline, because we are short

staffed currently, because of a scheduled day off and another person on maternity leave.

Ron Wruble
City Director
City of Harbor Beach

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Friday, October 07, 2016 4:57 PM
To: Ron Wruble
Cc: Gary Booms; MiOC Board; Dean Greenblatt
Subject: Re: Harbor Beach FOIA Request

Mr. Wruble,

Thank you for your response.

Your response and the payment you have requested is wildly unlawful. I urge you to confer with council at your soonest convenience and review the relevant statutes.

I look forward to a revised response that complies with the FOIA.

Tom Lambert
President
Michigan Open Carry, Inc.

On Fri, Oct 7, 2016 at 1:44 PM, Ron Wruble <rwruble@harborbeach.com> wrote:

Mr. Lambert,

This e-mail is in response to your request for information pursuant to the Michigan Freedom of Information Act.

I have determined that it will take me a minimum of 3 hours and City Clerk Leslie Woycehoski a minimum of 2 hours to collect the information you have requested. The City Director's compensation, including benefits, is

\$55.09 per hour. The Clerk's total compensation, including benefits, is \$43.30 per hour. The total cost to produce the information is

\$251.87. You will need to have payment into City Hall prior to the information being released in the form of cash or money order.

I checked with Mayor Booms (who is also the FOIA Officer for the City) he indicated that the City will not waive the cost for the FOIA request.

Please let me know how you want to proceed. The Clerk and I have blocked off time in our schedules to produce the Information you requested on Monday, so we can meet your demand of Tuesday, October 11th.

Ron Wruble

City Director

City of Harbor Beach

989-551-3393

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 03, 2016 5:52 PM
To: rwruble@harborbeach.com; lwoycehoski@harborbeach.com
Cc: MiOC Board
Subject: Harbor Beach FOIA Request

October 3rd, 2016

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, in relation to resolution # 2016-92.

- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, from August 1st, 2016 through today October 3rd, 2016, in relation to the City's policy on firearms carried by employees.

- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert

President

Michigan Open Carry, Inc.

Ron Wruble

From: Ron Wruble [rwruble@harborbeach.com]
Sent: Wednesday, October 19, 2016 10:58 AM
To: 'Tom Lambert'
Cc: 'ferrisschwedler@gmail.com'; 'Gary Booms'
Subject: RE: FOIA Request

Mr. Lambert,

Do you plan on coming to Harbor Beach to view the Codes and Ordinances? We do not have By-Laws. If you want to set an appointment for anytime during business hours, we can make the documents available. If you want them sent to you electronically that will involve scanning several hundred pages. That will be a time consuming task which the City's taxpayers will need to be reimbursed. The information is available, and we will be more than happy to provide it. How do you want to proceed?

Ron Wruble
City Director
City of Harbor Beach

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 17, 2016 12:16 PM
To: Ron Wruble; Gary Booms
Cc: MIOC Board
Subject: FOIA Request

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any City By-Laws.
- Any City Codes or Ordinances.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 25th.

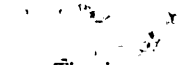
If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Please make any copies generated under this request available electronically.

Lastly, this request may be considered rescinded in the event the City provides all of the requested information on its website and the City responds indicating the occurrence of such.

Thank you,

Tom Lambert
President
Michigan Open Carry, Inc.



Thank you,

Tom Lambert

President

Michigan Open Carry, Inc.

City Director

City of Harbor Beach

From: Tom Lambert [mailto:tlambert@miopencarry.org]

Sent: Monday, October 17, 2016 12:16 PM

To: Ron Wruble; Gary Booms

Cc: MiOC Board

Subject: FOIA Request

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any City By-Laws.
- Any City Codes or Ordinances.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 25th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Please make any copies generated under this request available electronically.

Lastly, this request may be considered rescinded in the event the City provides all of the requested information on its website and the City responds indicating the occurrence of such.

Ron Wruble

From: Tom Lambert [tlambert@miopencarry.org]
Sent: Monday, October 03, 2016 5:52 PM
To: rwruble@harborbeach.com; lwoycehoski@harborbeach.com
Cc: MiOC Board
Subject: Harbor Beach FOIA Request

October 3rd, 2016

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, in relation to resolution # 2016-92.
- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, from August 1st, 2016 through today October 3rd, 2016, in relation to the City's policy on firearms carried by employees.
- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert
President
Michigan Open Carry, Inc.

Ron Wruble

City Director

City of Harbor Beach

989-551-3393

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 03, 2016 5:52 PM
To: rwruble@harborbeach.com; lwoycehoski@harborbeach.com
Cc: MiOC Board
Subject: Harbor Beach FOIA Request

October 3rd, 2016

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

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- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert

President

Michigan Open Carry, Inc.

Ron Wruble

From: Tom Lambert [tlambert@miopencarry.org]
Sent: Monday, October 10, 2016 4:12 PM
To: Ron Wruble
Cc: Gary Booms; ferrisschwedler@gmail.com; MiOC Board; Dean Greenblatt
Subject: Re: Harbor Beach FOIA Request

Mr. Wruble,

I am pleased you have already started gathering the information. Thank you.

As to the fees you wish to charge, with respect I again implore you to review the entire FOIA, including all of Section 4, with counsel and comply with it fully. If you wish to charge a fee for the completion of this request, then there are numerous burdens you must meet, almost none of which you have. If you insist on charging a fee in a non-compliant manner, then I will interpret such as a denial of my request.

At this time, with both the information you have and have not provided, I consent to a fee of \$0 for the completion of my request.

I again look forward to a response that complies with the FOIA.

Thank you,

Tom Lambert
President
Michigan Open Carry, Inc.

On Mon, Oct 10, 2016 at 12:30 PM, Ron Wruble <rwruble@harborbeach.com> wrote:

Mr. Lambert,

You are partially correct. I checked the FOIA Procedures and Guidelines and had it verified by the City's Attorney.

We can only charge at the rate of the person with the lowest compensation that is qualified to prepare the information.

That person is the Deputy Clerk. Her total compensation with benefits is \$38.02. The Clerk and I will be preparing the information.

It will be taking in excess of five hours to compile, but now instead of a cost of \$251.87 it will be reduced to \$190.10.

The Deputy Clerks compensation of \$38.10 x 5 hours. There will be no copying charge. Let me know how to proceed.

I already started gathering the information. We may need an extension from Tuesday's deadline, because we are short

staffed currently, because of a scheduled day off and another person on maternity leave.

Ron Wruble

- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert

President

Michigan Open Carry, Inc.

Ron Wruble

From: Tom Lambert [tlambert@miopencarry.org]
Sent: Thursday, October 13, 2016 3:36 PM
To: Ferris & Schwedler, P.C.; Ron Wruble; Gary Booms
Cc: MiOC Board; Dean Greenblatt; Nick Somberg
Subject: [BULK] Re: FOIA request

Importance: Low

Mr. Ferris,

Thank you for your response on behalf of the City of Harbor Beach to my FOIA request. While your response did make necessary strides to comply with the FOIA, it still fell woefully short of both the law and the City's own policy. If you require evidence of this, then you may simply look no further than the Freedom of Information Act Request Detailed Cost Itemization form contained at the end of your response, where one need only examine the first page to see that the manner in which it was completed is conspicuously incomplete.

Further, the City's policy is unlawful in critical areas, most notably the provision requiring all fees to be paid prior to the fulfillment of the request.

For a third time, I urge the City to **read the FOIA**, including the very portion you quoted in the City's last response. If the plain reading is not enough for you, then I suggest looking into how Public Act 563 of 2014 amended the FOIA, including the portion dealing with allowable deposits.

At this point, time has run out for the City, without the City complying with the Act. To date, the statutory deadline has passed without the City providing the requested information, a compliant good-faith estimation of fees, a compliant request for a good-faith deposit, or a compliant request for an extension.

Despite the City's numerous and continued violations, here is what I'm willing to do at this point:

1. Accept the requested documentation at no cost and without further delay by the City, by the end-of-business on October, 14th. As all of the fee requests the City has submitted are improper, both under the FOIA and the City's policy, I believe this to be both reasonable and overdue.
2. Or, pay actual costs not to exceed \$76.00 **after** receiving the requested documentation in full, on the condition that the City provide additional documentation proving the Deputy City Clerk receives a hourly wage of \$38.02 and provides an itemization of the final charge in accordance with the FOIA. As prior responses from Mr. Wruble indicated the \$38.02 number included benefits, but your response did not, I believe there is good cause to assume your response improperly attempts to charge benefits, outside of state law, the City's policy, and the form you submitted. Should the City be willing to prove this fee estimation is in compliance, then I will pay resulting properly assessed fees.
3. Or, consider my request denied. As I stated previously, I would consider any further attempts to charge a fee in a non-compliant manner as a denial of my request.

Again, I must stress that the City's statutorily provided deadline has passed. Please understand that this is my final attempt to provide the City with a suitable means of compliance. Justifying fees in a compliant manner is **solely** a burden of the City, which means responsibility for noncompliance is entirely the City's. If the City is unwilling or unable to fully meet this burden, then this does not release the City from its duty to otherwise comply with the FOIA. The City has already been provided three attempts which I feel is more than generous.

I urge the City to comply with the FOIA and release the requested information at its soonest ability.

Tom Lambert
President
Michigan Open Carry, Inc.

On Tue, Oct 11, 2016 at 4:37 PM, Ferris & Schwedler, P.C. <ferrisschwedler@gmail.com> wrote:

Please see the attachment.

Kelli L. McGrath
Legal Assistant to John T. Ferris

Ferris & Schwedler, P.C.

237 E. Huron Avenue, Bad Axe, Michigan 48413

Telephone: (989) 269-9571

Fax: (989) 269-6484

ferrisschwedler@gmail.com

The transmitted documents are intended only for the use of the individual or entity named above, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the documents transmitted with this transmittal sheet is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone at the above number.

Ron Wruble

From: Tom Lambert [tlambert@miopencarry.org]
Sent: Friday, October 14, 2016 4:14 PM
To: Ferris & Schwedler, P.C.; Ron Wruble; Gary Booms
Cc: MiOC Board; Dean Greenblatt; Nick Somberg
Subject: Re: FOIA

Mr. Ferris,

I have noticed that the City's latest response has changed from it's previous response. Is this an admission that the previous response was not in compliance with Section 4?

Tom Lambert
President
Michigan Open Carry, Inc.

On Fri, Oct 14, 2016 at 3:56 PM, Ferris & Schwedler, P.C. <ferrisschwedler@gmail.com> wrote:

Please see the attached letter from Mr. Ferris.

Hilary L. Fox
Legal Assistant to John T. Ferris

Legal Assistant to Julianne M. Ferris

Ferris & Schwedler, P.C.

237 E. Huron Avenue, Bad Axe, Michigan 48413

Telephone: (989) 269-9571

Fax: (989) 269-6484

ferrisschwedler@gmail.com

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Ron Wruble

From: Tom Lambert [tlambert@miopencarry.org]
Sent: Monday, October 17, 2016 12:11 PM
To: Ron Wruble
Cc: Gary Booms; Ferris & Schwedler, P.C.; MiOC Board; Dean Greenblatt; Nick Somberg
Subject: FOIA Fee Appeal
Attachments: 161014152253.PDF

Mr. Wruble,

I am hereby appealing the fees the City of Harbor Beach is unlawfully attempting to charge for the FOIA request I submitted on October 3rd, 2016.

My appeal is based on the City's response submitted to me via Mr. Ferris on Oct. 14th, 2016, which I have attached. Please note the form submitted with the response is improperly dated as Oct. 11th, 2016. The correct date is Oct. 14th, as stated on the cover letter.

The following are the items I am appealing at this time. I hereby reserve the right to issue further appeals at a later date, or challenge the City's response altogether.

Labor Cost for Copying/Duplication:

- Under 15.234 (2), the City is not permitted to charge more than the actual cost of fringe benefits. Should the City's numbers be believed, an employee earning \$50,000 per year earns more than \$25,000 per year in benefits. Nearly \$30,000 with the initial numbers. Plus, 2 hours to make digital copies of records, most of which should already be in a digital format, is quite excessive.

MCL 15.234

(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:

Labor Costs to Locate:

- The City's stated "unusual circumstance" of "limited staff" used to justify charging for searching costs is not a nature of the request and is therefore impermissible under 15.234 (3).

MCL 15.234

(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.

Waiver: Public Interest:

- The requested information is in the public interest as it will assist Harbor Beach residents in determining how the City reached a public decision. The City's statement that this is not in the public interest is troubling. One would think the City would want its residents to have full knowledge of how the City reached a particular decision, and would have made this information available without being prompted.

Estimated Time Frame to Provide Records:

- The City has estimated 5 hours of work to produce the records and has previously stated that work has already commenced. However, in the City's last response, the City estimated a date of October 21, 2016 for the production of said records, which is well over week from the time work was indicated to have begun. Under these circumstances, I believe there is good cause to believe this estimate is not reasonably accurate as required by 15.234 (8).

MCL 15.234

(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 shall not exceed 1/2 of the total estimated fee, and a public body's request for a deposit shall include a detailed itemization as required under subsection (4). The response shall 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.

Deposit: Good Faith:

- Were the City to estimate its costs properly and in good-faith, the total costs would be under the amount necessary to justify a deposit under 15.234 (8)

MCL 15.234

(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 shall not exceed 1/2 of the total estimated fee, and a public body's request for a deposit shall include a detailed itemization as required under subsection (4). The response shall 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.

Deposit: Increased Deposit Due to Previous FOIA Fees Not Paid In Full

- The City has indicated that it is requiring an increased deposit before it begins a full public record search. 15.234 (11) contains numerous criteria, ALL of which must be met to justify a deposit of this nature. At this time NONE of the necessary criteria have been met and the City has provided no indication to the contrary.

MCL 15.234

(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 (7).
- (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.

Late Response Labor Costs Reduction:

- The City did not indicate a late cost reduction. My request was considered received by the City on Oct. 4th. The City's response was submitted on Oct. 14th which is three days outside of the statutory limit. A reduction of no less than 15% should be applied under 15.234 (9).

MCL 15.234

(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).

NOTE: If the City does not wish to claim that its response submitted on Oct. 14 is its "initial" response, then I will assume the City's first attempted response submitted by Mr. Wruble on Oct. 7th to be the "initial" response. In this case, the City would need to provide the requested information now, without any further delay, and without charge as that attempted response was entirely non-compliant. Further, as the City did not take an extension under 15.235 (2)(d), the City's initial response is the only time where the City is allowed to require a good-faith deposit under 15.234 (8).

MCL 15.234

(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 shall not exceed 1/2 of the total estimated fee, and a public body's request for a deposit shall include a detailed itemization as required under subsection (4). The response shall 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.

MCL 15.235

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall 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.

Full Balance Paid Before Release Requirement:

- The City is requiring that the full balance be paid prior to releasing the requested documents. 15.234 (8) only allows for a maximum 50% of the estimated cost or final charge to be required as a good-faith deposit prior to providing the requested records.

MCL 15.234

(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 shall not exceed 1/2 of the total estimated fee, and a public body's request for a deposit shall include a detailed itemization as required under subsection (4). The response shall 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.

The Entire Response:

- Even after four separate attempts, by multiple City employees, including two by an attorney, over the span of more than a week, the City still has not complied with its duty under the FOIA, yet is still attempting to improperly assess a fee contrary to 15.234. During the time since my request, two other FOIA requests have been fulfilled on time, or early, and at no cost, by two other public bodies. The numerous troubles experienced in this case seem to be unique to the City of Harbor Beach. I therefore believe it is reasonable at this time to question whether or not the City is acting in good-faith to comply with its duty. The information requested is simple, yet the City still delays.

MCL 15.234

(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 shall 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 shall not exceed the sum of the following components:

I again urge the City to cease further delay and release the requested information at its soonest ability.

Tom Lambert
President
Michigan Open Carry, Inc.

FERRIS & SCHWEDLER, P.C.

ATTORNEYS AND COUNSELORS AT LAW
237 EAST HURON AVENUE
BAD AXE, MICHIGAN 48413

(989) 269-9571

FAX: (989) 269-6484

JOHN T. FERRIS
JOHN D. SCHWEDLER
JULIENNE M. FERRIS

October 14, 2016

Mr. Lambert:

In regards to the statutory deadline passing, that is incorrect. The City of Harbor Beach's Freedom of Information Act states that when a request is made, the governmental body has 5 days to respond to the request. The State of Michigan's Freedom of Information Act, also, has the same 5 day response time. Here, the city has complied within the allotted time by responding with an email sent on October 11, 2016. In our previously sent email the city was granting your request not denying your request subject to a good faith detailed itemized sheet. Due to the limited staff available to process the request, the employee must take time away from normal work duties at township expense.

City of Harbor Beach Section 3:

Processing a Request Unless otherwise agreed to in writing by the person making the request, the City 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 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 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's website.

MCLA 15.235:

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall 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.

In regards to your concerns about the City of Harbor Beach charging a good faith deposit outside the amount allowed under Michigan's Freedom of Information Act. Our good faith estimate is for the compensation of employees who will be undertaking the retrieval, procurement, copying and/or any other task involved in making the documents available for you.

Harbor Beach FOIA

Section 3: Processing a Request

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 will require a good-faith deposit pursuant to Section 4 of this policy before processing the request.

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 fees. If a request for public records is from a person who has not paid the City 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's possession;
- The public records were made available to the individual, subject to payment, within the time frame estimated by the City 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; and
- The FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

MCLA 15.234:

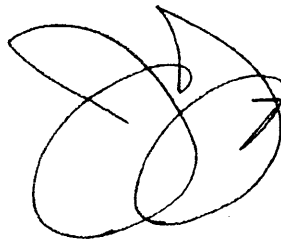
(8) In either the public body's initial response or subsequent response as described under section 5(2)(d), the public body may require a good-faith deposit from the person requesting information before providing the public records to the requestor if the entire fee estimate or charge authorized under 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 shall not exceed 1/2 of the total estimated fee, and a public body's request for a deposit shall include a detailed itemization as

required under subsection (4). The response shall 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.

Enclosed is a summary of the Harbor Beach FOIA policy and a cost itemized sheet for your request. The City of Harbor Beach is able to produce the request after the established fee has been paid.

Sincerely,

FERRIS & SCHWEDLER, P.C.

A handwritten signature in black ink, consisting of several overlapping loops and a final stroke that extends to the right.

By: John T. Ferris

JTF/hlf

Enclosures

Freedom of Information Act Request Detailed Cost Itemization

Date: October 11, 2016 Prepared for Request No.: _____ Date Request Received: October 4, 2016

<p>The following costs are being charged in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the City's FOIA Policies and Guidelines.</p>			
<p>1. Labor Cost for Copying / Duplication</p> <p>This is the cost of labor directly associated with duplication of publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the Internet or other electronic means as stipulated by the requestor.</p> <p>This shall not be more than the hourly wage of the City's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments all partial time increments must be rounded down. <i>If the number of minutes is less than one increment, there is no charge.</i></p> <p>Hourly Wage Charged: \$24.02 <u>OR</u> Hourly Wage with Fringe Benefit Cost: \$36.03 Multiply the hourly wage by the percentage multiplier: 50% (up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.</p> <p>Charge per increment: <u>OR</u> Charge per increment: \$9.01</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>		<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x 8 =</p>	<p>1. Labor Cost</p> <p>\$ 72.08</p>
<p>2. Labor Cost to Locate:</p> <p>This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically:</p> <p>due to the limited staff available to process the request, the employee must take time away from normal work duties at the City of Harbor Beach expense.</p> <p>The City will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Wage Charged: \$ 24.02 <u>OR</u> Hourly Wage with Fringe Benefit Cost: \$ 36.03 Multiply the hourly wage by the percentage multiplier: 50% (up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.</p> <p>Charge per increment: \$ <u>OR</u> Charge per increment: \$9.01</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>		<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x 12 =</p>	<p>2. Labor Cost</p> <p>\$108.12</p>

<p>3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):</p> <p><i>(Fill this out if using a City employee. If contracted, use No. 3b instead).</i></p> <p>The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.</p> <p>This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>This is the cost of labor of a City employee, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the City's lowest-paid employee capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. If the number of minutes is less than 15, there is no charge.</p> <p>Hourly Wage Charged: \$ _____ Charge per increment: \$ _____</p> <p><u>OR</u></p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____ <u>OR</u></p> <p>Multiply the hourly wage by the percentage multiplier: _____% Charge per increment: \$ _____</p> <p>(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>	<p>To figure the number of increments, take the number of minutes: _____ divide by 15-minute increments, and round down.</p> <p>Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>3a. Labor Cost</p> <p>\$ _____</p>

3b. Contracted Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a instead.)

The City will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the City that are excessive and beyond the normal or usual amount for those services compared to the City's usual FOIA requests, because of the nature of the request in this particular instance, specifically:

As this City does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a contractor (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to 6 times the state minimum hourly wage rate of _____ (currently \$8.15).

Name of contracted person or firm: _____

These costs will be estimated and charged in 15-minute time increments (*must be 15-minutes or more*); all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Cost Charged: \$ _____

Charge per increment: \$ _____

To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down to: _____ increments. Enter below:

Number of increments

x _____ =

3b. Labor Cost

\$ _____

4. Copying / Duplication Cost:

Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (*for example, 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*).

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 1/2 x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: Disc / Tape / Drive / Other Digital Medium Cost per item: _____

The cost of paper copies must be calculated as a total cost per sheet of paper. The fee cannot 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 City must utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

Number of Sheets:

x _____ =

x _____ =

x _____ =

No. of items:

x _____ =

Costs:

\$ _____

\$ _____

\$ _____

\$ _____

4. Total Copy Cost

\$ 0

5. Mailing Cost:

The City will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The City *may* charge for the least expensive form of postal delivery confirmation.
- The City *cannot* charge more for expedited shipping or insurance unless specifically requested by the requestor.*

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp
\$ _____ per pound
\$ _____ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

☐ * Requestor has requested expedited shipping or insurance

Number of
Envelopes or
Packages:

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

Costs:

5. Total
Mailing Cost

\$ 0

6a. Copying/Duplicating Cost for Records Already on City's 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 non-paper physical digital media, the City will provide the public records in the specified format and may charge copying costs to provide those copies.

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 ½ x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 ½ x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

☐ Requestor has stipulated that some / all of the requested records that are already available on the City's website be provided in a paper or non-paper physical digital medium.

Number of
Sheets:

x _____ = \$ _____

x _____ = \$ _____

x _____ = \$ _____

No. of Items:

x _____ = \$ _____

Costs:

6a. Web
Copy Cost

\$ 0

<p>6b. <u>Labor Cost for Copying/Duplicating Records Already on City's Website:</u></p> <p>This shall not be more than the hourly wage of the City's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in 15-minute time increments (i.e.: 15-minutes or more); all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Wage Charged: \$ _____ Charge per Increment: \$ _____</p> <p style="text-align: center;"><u>OR</u></p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____ <u>OR</u></p> <p>Multiply the hourly wage by the percentage multiplier: _____ % and add to the hourly wage for a total per hour rate. Charge per Increment: \$ _____</p> <p>The City may use a fringe benefit multiplier greater than the 50% limitation, not to exceed the actual costs of providing the information in the specified format.</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor</p>	<p>To figure the number of increments, take the number of minutes: _____, divide by 15 -minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>6b. Web Labor Cost</p> <p>\$ 0</p>
<p>6c. <u>Mailing Cost for Records Already on City's Website:</u></p> <p style="text-align: right;">Actual Cost of Envelope or Packaging: \$ _____</p> <p style="text-align: right;">Actual Cost of Postage: \$ _____ per stamp / per pound / per package</p> <p style="text-align: right;">Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____</p> <p style="text-align: right;">*Expedited Shipping or Insurance as Requested: \$ _____</p> <p><input type="checkbox"/> * Requestor has requested expedited shipping or insurance</p>	<p>Number:</p> <p>x _____ =</p> <p>x _____ =</p> <p>x _____ =</p> <p>x _____ =</p>	<p>Costs:</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>6c. Web Mailing Cost</p> <p>\$ 0</p>
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p><u>Subtotal Fees Before Waivers, Discounts or Deposits:</u></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Estimated Time Frame to Provide Records:</p> <p>October 21, 2016</p> <p>The time frame estimate is nonbinding upon the City, but the City is providing the estimate in good faith. Providing an estimated time frame does not relieve the City from any of the other requirements of this act.</p> </div> </div> <div style="width: 50%;"> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p><input checked="" type="checkbox"/> Cost estimate</p> <p><input type="checkbox"/> Bill</p> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>1. Labor Cost for Copying: \$ 72.08</p> <p>2. Labor Cost to Locate: \$ 108.12</p> <p>3a. Labor Cost to Redact: \$ _____</p> <p>3b. Contract Labor Cost to Redact: \$ _____</p> <p>4. Copying/Duplication Cost: \$ _____</p> <p>5. Mailing Cost: \$ _____</p> <p>6a. Copying/Duplication of Records on Website: \$ _____</p> <p>6b. Labor Cost for Copying Records on Website: \$ _____</p> <p>6c. Mailing Costs for Records on Website: \$ _____</p> <p style="text-align: right;">Fees Subtotal: \$ 180.20</p> </div> <div style="width: 35%; text-align: right;"> <p>\$ 72.08</p> <p>\$ 108.12</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> </div> </div> </div> </div>		
<p><u>Waiver: Public Interest</u></p> <p>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 City 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.</p> <p><input type="checkbox"/> All fees are waived <u>OR</u> <input type="checkbox"/> All fees are reduced by: _____ %</p>	<p>Subtotal Fees After Waiver:</p> <p>\$ _____</p>	<p>\$ _____</p>

<p>Discount: Indigence A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this act and who:</p> <p>1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, OR</p> <p>2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.</p> <p>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:</p> <p>(i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year, OR</p> <p>(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.</p> <p style="text-align: right;"><input type="checkbox"/> Eligible for Indigence Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p>Discount: Nonprofit Organization A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by 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 and the federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets ALL of the following requirements:</p> <p>(i) Is made directly on behalf of the organization or its clients.</p> <p>(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.</p> <p>(iii) Is accompanied by documentation of its designation by the state, if requested by the City.</p> <p style="text-align: right;"><input type="checkbox"/> Eligible for Nonprofit Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p>Deposit: Good Faith The City may require a good-faith deposit <u>in either its initial response or a subsequent response before providing the public records to the requestor</u> if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee. The deposit cannot exceed 1/2 of the total estimated fee.</p> <p style="text-align: right;">Percent of Deposit: 50%</p>	<p>Date Paid:</p> <p>_____</p>	<p>Deposit Amount Required:</p> <p>\$ 90.10</p>
<p>Deposit: Increased Deposit Due to Previous FOIA Fees Not Paid In Full After a City has granted and fulfilled a written request from an individual under this act, if the City has not been paid in full the total amount of fees for the copies of public records that the City made available to the individual as a result of that written request, the City may require an increased estimated fee 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:</p> <p>(a) The final fee for the prior written request was not more than 105% of the estimated fee.</p> <p>(b) The public records made available contained the information being sought in the prior written request and are still in the City's possession.</p> <p>(c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request.</p> <p>(d) Ninety (90) days have passed since the City notified the individual in writing that the public records were available for pickup or mailing.</p> <p>(e) The individual is unable to show proof of prior payment to the City.</p>		

<p>(f) The City calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.</p> <p>A City can no longer require an increased estimated fee deposit from an individual if ANY of the following apply:</p> <p>(a) The individual is able to show proof of prior payment in full to the City, OR (b) The City is subsequently paid in full for the applicable prior written request, OR (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the City.</p>	<p>Date Paid:</p> <p>_____</p>	<p>Percent Deposit Required:</p> <p>50%</p> <p>Deposit Required:</p> <p>\$ 90.10</p>
<p>Late Response Labor Costs Reduction</p> <p>If the City does not respond to a written request in a timely manner as required under MCL 15.235(2), the City must do the following:</p> <p>(a) Reduce the charges for labor costs otherwise permitted by 5% for each day the City exceeds the time permitted for a response to the request, with a maximum 50% reduction, if EITHER of the following applies:</p> <p>(i) The late response was willful and intentional, OR</p> <p>(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.</p>	<p>Number of Days Over Required Response Time:</p> <p>_____</p> <p>Multiply by 5%</p> <p>= Total Percent Reduction:</p> <p>_____</p>	<p>Total Labor Costs</p> <p>\$ _____</p> <p>Minus Reduction</p> <p>\$ _____</p> <p>= Reduced Total Labor Costs</p> <p>\$ _____</p>
<p>The Public Summary of the City's FOIA Procedures and Guidelines is available free of charge from: Website: www.harborbeach.com Email: _____ Phone: 989.479.3363</p> <p>Address: 766 State Street, Harbor Beach, Michigan, 48441</p> <p>Request Will Be Processed, But <u>Balance Must Be Paid Before</u> Copies May Be Picked Up, Delivered or Mailed</p>	<p>Date Paid:</p> <p>_____</p>	<p>Total Balance Due:</p> <p>\$ 180.20</p>

Ron Wruble

From: Tom Lambert [tlambert@miopencarry.org]
Sent: Monday, October 17, 2016 12:16 PM
To: Ron Wruble; Gary Booms
Cc: MiOC Board
Subject: FOIA Request

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any City By-Laws.
- Any City Codes or Ordinances.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 25th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Please make any copies generated under this request available electronically.

Lastly, this request may be considered rescinded in the event the City provides all of the requested information on its website and the City responds indicating the occurrence of such.

Thank you,

Tom Lambert
President
Michigan Open Carry, Inc.

Ron Wruble

From: Tom Lambert [tlambert@miopencarry.org]
Sent: Wednesday, October 26, 2016 2:14 PM
To: Ron Wruble
Cc: Casey Armitage; MiOC Board
Subject: Re: FOIA Request

Mr. Wruble,

Casey Armitage has indicated that she is available and is willing to inspect the documents on behalf of MOC. Please work with her to coordinate a good time for this to happen. Also please copy me on any further related correspondence.

Thank you.

Tom Lambert
President
Michigan Open Carry, Inc.

On Wed, Oct 19, 2016 at 10:58 AM, Ron Wruble <rwruble@harborbeach.com> wrote:

Mr. Lambert,

Do you plan on coming to Harbor Beach to view the Codes and Ordinances? We do not have By-Laws.

If you want to set an appointment for anytime during business hours, we can make the documents available.

If you want them sent to you electronically that will involve scanning several hundred pages. That will be a time consuming

task which the City's taxpayers will need to be reimbursed. The information is available, and we will be more than happy to provide it. How do you want to proceed?

Ron Wruble

City Director

City of Harbor Beach

From: Tom Lambert [mailto:tlambert@miopencarry.org]
Sent: Monday, October 17, 2016 12:16 PM
To: Ron Wruble; Gary Booms
Cc: MiOC Board
Subject: FOIA Request

**RESOLUTION # 2016-92
AMENDING THE CITY OF HARBOR BEACH
PERSONNEL MANUAL TO
PROHIBIT OPEN CARRY OF FIREARMS BY EMPLOYEES**

At a regular meeting of the City Council of the City of Harbor Beach held on Tuesday, September 6, 2016 at City Hall and called to order at 7:00 p.m. by Mayor Booms, the following Resolution was presented:

Present: _____

Absent: _____

It was moved by _____ and seconded by _____ to adopt the following Resolution:

WHEREAS, the Administration Committee of the City of Harbor Beach is recommending to Council that they amend the City of Harbor Beach Personnel Manual to include prohibiting employees from open carrying of a firearm while on duty for the City of Harbor Beach;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Harbor Beach approves amending the City of Harbor Beach's Personnel Manual to include prohibiting employees from open carrying of a firearm while on duty for the City of Harbor Beach;

YEAS: _____

NAYS: _____

ADOPTED: _____

Leslie A. Woycehoski, Clerk

CLERK'S CERTIFICATION

State of Michigan }
County of Huron } ss
City of Harbor Beach }

I, Leslie A. Woycehoski, Clerk of the City of Harbor Beach, do hereby certify that the foregoing Resolution was adopted on Tuesday, September 6, 2016 at a regular meeting of the City Council of the City of Harbor Beach.

Leslie A. Woycehoski, Clerk

ADMINISTRATION COMMITTEE MINUTES
AUGUST 29, 2016

A meeting of the Administration Committee of the City Council of the City of Harbor Beach was held on Monday, August 29, 2016 at City Hall. The meeting was called to order at 6:22 p.m. by Mayor Booms.

Present: Kleinknecht, Swartz, and Mayor Booms

Absent: None

It was moved by Swartz, seconded by Kleinknecht to approve the Agenda with the addition of item f. Demolition of Salt Barn and item g. Scrap Tire Asphalt, Under New Business. Motion carried. 3 yeas.

CITIZEN COMMENT: None.

NEW BUSINESS: City Director Wruble explained fossil fuel redevelopment grant opportunities which are available to communities affected by the closing of fossil fuel plants. The City of Harbor Beach has applied for a grant in the amount of \$100,000.00 to be funded by DTE in the amount of \$50,000.00 and the EDA in the amount of \$50,000.00.

It was moved by Kleinknecht, seconded by Swartz to recommend to Council that they approve the Knights of Columbus request to hold their Tootsie Roll Drive on October 7th and 8th from 9:00 a.m. to 6:00 p.m. Motion carried. 3 yeas.

Hiring a DPW employee was discussed and will be revisited at the next committee meeting.

DTE Smart Meters were discussed. No action was taken.

An employee's request to carry a firearm open or concealed was discussed. It was moved by Booms, seconded by Swartz to recommend to Council to modify the Personnel Manual to prohibit open carry of a firearm as the City's Personnel Manual already prohibits employees from carrying a concealed weapon while on duty. Motion carried 3 yeas.

Demolition of the old salt barn was discussed. Superintendent Jurgess would like to solicit bids for the demolition of the building. The Committee requested that he investigate the possibility of the DPW demolishing the building.

Superintendent Jurgess reported that there are grants available for the purchase of asphalt. The asphalt purchased must contain scrap tires. Superintendent Jurgess is in the process of obtaining the paperwork for the grant process.

There being no further business, it was moved by Swartz, seconded by Kleinknecht that the meeting be adjourned at 6:48 p.m.

Leslie A. Woycehoski, Clerk

pursuant to this policy will be held in confidence to the maximum possible extent. The City will not tolerate retaliation against any employee reporting a violation of this policy.



Concealed Weapons

Except for City Police Officers, employees may not carry a concealed weapon, as defined by the State's Concealed Weapons Act, while on-duty, regardless of whether or not an employee has obtained a license to carry a concealed weapon. On-duty is defined as the hours between which an employee reports for work and the time the employee leaves work, including overtime work and call-outs, emergencies and required attendance at meetings of the City of Harbor Beach whether such meetings occur during or after normal working hours.



Safety and Right to Know

Each employee must be familiar with applicable safety rules and operating guidelines associated with their department and the machinery and equipment required of their work.

No employee should perform any work tasks or take any action which may endanger the employee, another employee or the public. If an employee is in doubt about the safeness of a situation, the employee should report his/her concerns to their supervisor prior to engaging in the activity.

The City complies with federal and state Right-To-Know laws and will make every effort to provide information to employees about any hazardous chemical to which they may be exposed. Right-To-Know information is posted near the areas in which employees may be exposed to chemicals or other potentially hazardous materials. Employees are required to read and be familiar with all posted materials.



Hours of Work

A normal workweek for non-union staff typically consists of 40 productive work hours, with additional time for meal and rest breaks. Union contracts may specify hours of work, consult those documents for specifics.

An employee's hours of work may be rescheduled to satisfy workload demands, operational needs, or to accommodate special requests. An employee

CITY OF HARBOR BEACH
CITY COUNCIL AGENDA
SEPTEMBER 6, 2016
7:00 P.M.

1. MEETING CALLED TO ORDER BY MAYOR BOOMS
2. PLEDGE OF ALLEGIANCE
3. ROLL
4. CORRECTIONS/ADDITIONS TO AGENDA
5. APPROVAL OF MINUTES:
 - a. August 15, 2016 Council Meeting Minutes
 - b. August 29, 2016 Water Committee Meeting Minutes
 - c. August 29, 2016 Administration Committee Meeting Minutes
6. APPROVAL OF BILLS:

a.	September 2016 Bills	\$329,779.51
b.	Bond Payment	\$ 22,258.54
c.	Village of Forestville	\$ 673.80
d.	Booms Rent-All	\$ 108.90
e.	J-Lyn Charters	\$ 1,825.00
f.	Chris Ginther	\$ 2,000.00
g.	Booms Rent-All	\$ 82.60
h.	Cooperative Elevator	\$ 705.60
7. CITIZEN COMMENT
8. UNFINISHED BUSINESS: None
9. NEW BUSINESS:
 - a. Resolution # 2016-92, "Amending the City of Harbor Beach Personnel Manual to Prohibit Open Carry of Firearms by Employees"
 - b. Motion to Approve the Knights of Columbus Request to Hold Their Tootsie Roll Drive on October 7th and 8th from 9:00 a.m. to 6:00 p.m.
10. COUNCIL REPORTS
11. NEXT MEETING DATE: September 19, 2016
12. ADJOURNMENT

**RESOLUTION # 2016-92
AMENDING THE CITY OF HARBOR BEACH
PERSONNEL MANUAL TO
PROHIBIT OPEN CARRY OF FIREARMS BY EMPLOYEES**

At a regular meeting of the City Council of the City of Harbor Beach held on Tuesday, September 6, 2016 at City Hall and called to order at 7:00 p.m. by Mayor Booms, the following Resolution was presented:

Present: Capling, Kleinknecht, Swartz, Woodke and Mayor Booms

Absent: None

It was moved by Kleinknecht and seconded by Woodke to adopt the following Resolution:

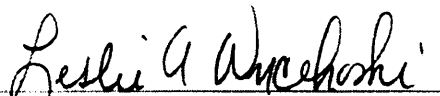
WHEREAS, the Administration Committee of the City of Harbor Beach is recommending to Council that they amend the City of Harbor Beach Personnel Manual to include prohibiting employees from open carrying of a firearm while on duty for the City of Harbor Beach;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Harbor Beach approves amending the City of Harbor Beach's Personnel Manual to include prohibiting employees from open carrying of a firearm while on duty for the City of Harbor Beach:

YEAS: Capling, Kleinknecht, Swartz, Woodke and Mayor Booms

NAYS: None

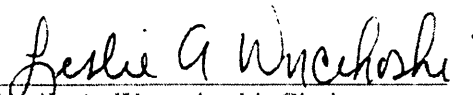
ADOPTED: September 6, 2016


Leslie A. Woycehoski, Clerk

CLERK'S CERTIFICATION

State of Michigan }
County of Huron } ss
City of Harbor Beach }

I, Leslie A. Woycehoski, Clerk of the City of Harbor Beach, do hereby certify that the foregoing Resolution was adopted on Tuesday, September 6, 2016 at a regular meeting of the City Council of the City of Harbor Beach.


Leslie A. Woycehoski, Clerk

Harbor Beach Schools Bylaws & Policies

7217 - WEAPONS

The Board of Education prohibits visitors from possessing, storing, making, or using a weapon in any setting that is under the control and supervision of the Board for the purpose of school activities approved and authorized by the Board including, but not limited to, property leased, owned, or contracted for by the Board, a school-sponsored event, or in a Board-owned vehicle.

State law establishes a "Weapon-Free School Zone" that extends 1,000 feet from the boundary of any school property.

The term "weapon" means any object which, in the manner in which it is used, is intended to be used, or is represented, is capable of inflicting serious bodily harm or property damage, as well as endangering the health and safety of persons. Weapons include, but are not limited to, firearms, guns of any type, including air and gas-powered guns, (whether loaded or unloaded), knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives.

The Superintendent shall refer a visitor who violates this policy to law enforcement officials and may take any necessary steps to exclude the visitor from Board property and Board-sponsored events.

Exceptions to this policy include:

- A. weapons under the control of law enforcement personnel;
- B. items approved by a principal as part of a class or individual presentation under adult supervision, if used for the purpose of and in the manner approved (working firearms and ammunition shall never be approved);
- C. theatrical props used in appropriate settings;
- D. starter pistols used in appropriate sporting events.

These restrictions shall not apply in the following circumstances to persons who are properly licensed to carry a concealed weapon:

- A. A parent or legal guardian of a student of the school may carry a concealed weapon while in a vehicle on school property, if s/he is dropping the student off at the school or picking up the child from the school.
- B. A county corrections officer, a member of a Sheriff's posse, a police or sheriffs reserve or auxiliary officer, or a State Department of Corrections parole or corrections officer, a private investigator, a Michigan State Police motor carrier officer or Capitol security officer, a State court judge, a security officer required by the employer to carry a concealed weapon while on the premises.
- C. A retired police or law enforcement officer or a retired State court judge.

The Superintendent shall take the necessary steps to prosecute for a violation of the Weapon-Free School Zone.

Schools and Michigan's Open Carry Gun Law

Despite the fact that this topic has been getting a fair amount of press recently, there remains a great deal of confusion concerning Michigan's gun laws and the rights of school districts to limit or prohibit weapons on school grounds. What follows is a breakdown of the current state of the law as well as recommendations on how to handle these situations both in the school and at board meetings.

BACKGROUND

THE INDIVIDUAL

- **The "Average Citizen"** - It is currently considered legal for anyone, even individuals who do not possess a Concealed Pistol License (CPL), to openly carry a firearm in Michigan. We can refer to this group of individuals as the "average citizen." There is no statute which explicitly allows the average citizen to open carry, but there is also no statute prohibiting it. As such, it has been concluded that a citizen can (assuming he or she has not been banned from owning a gun due to a prior felony conviction, etc.) openly carry a firearm in areas that are not consider "gun free zones."
- **The CPL Licensee** - In contrast to "the average citizen," individuals who possess a CPL can both open carry a firearm and carry a *pistol* (not any other type of firearm) in a concealed fashion in areas that are not considered "pistol free zones."

THE LAW

- Michigan law (MCL 750.234d) has declared it illegal (90-day misdemeanor) for the average citizen to possess a *firearm* in what are labeled "gun free zones." These include banks/credit unions, churches, hospitals, daycares, courts, theaters, sports arenas and (essentially) bars. *Schools are not included on the list of "gun free zones."*
- Federal law has declared that schools are to be gun free zones under the commerce clause (18 U.S.C. § 922(g)(2)(a)). We generally refer to these as "weapon free school zones." However, this law does not prohibit possession of a firearm in a weapon free school zone by individuals who have been issued a state license to possess a gun, so long as the process for issuing the license contains a background check conducted by law enforcement. Hence, Michigan CPL licensees qualify under this exception.
- Michigan law (MCL 750.237a) has declared it illegal (93-day misdemeanor) to possess a firearm in a "weapon free school zone." However, this law carves out the same exception as the federal law with respect to CPL Licensees.
- Another state law (MCL 28.425o) prohibits CPL Licensees from carrying a *concealed* weapon in what we can term "pistol free zones." The list of "pistol free zones" is

generally similar to those listed as "gun free zones," except that the list for "pistol free zones" also includes schools. As it relates to schools and school property, this statute indicates that CPL Licensees can be "carrying" a pistol in a concealed fashion so long as they are a parent or legal guardian who is dropping off or picking up a child and the pistol remains in the vehicle. This essentially acts as a ban on carrying a concealed weapon on school grounds outside of one's vehicle. This law does not address *open carrying* by a CPL licensee.

THE BOTTOM LINE

If an individual is a CPL licensee they can openly carry a weapon onto the property of a public school.

This labyrinth of statutes and exceptions has led us to the current interpretation of the law by the Michigan Court of Appeals (See Capital Area District Library v. Michigan Open Carry Inc., (2012)), which is that the average citizen cannot possess a firearm on school property in any manner but a CPL licensee can, so long as it is being carried openly. Concealed weapons, which can legally be carried only by a CPL licensee, are explicitly banned.

The State Supreme Court refused to hear the matter after the Court of Appeals ruling was handed down; meaning that a change to the law will now most likely have to come from the legislature. Some lawmakers are attempting to address this issue by introducing legislation which would ban the open carry of firearms in schools or otherwise add schools to the list of gun free zones as outlined in MCL 750.234d. This is being met with significant opposition from the gun lobby.

Some school districts have developed their own "policies" with respect to openly carrying a gun on school property. These policies vary in terms of their scope and effectiveness. Some schools have attempted to ban any weapons on the premises at all times, others demand that the gun be "checked in" at the office before proceeding to a classroom, while still others mandate that the individual and the gun remain in the office while a member of the staff escorts the child to/from their classroom, etc. Regardless, the reality is that any policy which attempts to restrict a CPL licensee's right to openly carry a firearm on school grounds would most likely be deemed contrary to law and unenforceable if it were challenged.

Most of the administrators who have implemented these policies are aware that they may not be enforceable if challenged, but feel compelled to maintain the policy as part of their overarching responsibility to maintain a safe school. Administrators always have the right to request that an individual leave their gun in their car, check it in at the school office, etc., but ultimately they probably cannot force the issue. Sometimes the individual will comply with a simple request to leave their firearm behind, but often times the person is an "open carry

advocate” who is specifically looking to be challenged in order to draw attention to the school’s “illegal” policy. Sometimes police involvement occurs; which is often exactly what the “open carry advocate” is hoping will occur.

Ultimately, the present state of the law is on the side of the citizen and, more than likely, the police will inform the school that so long as the individual is a CPL licensee and is carrying their weapon openly, it is a violation of their rights to prohibit them access to the school for any legitimate purpose. This is particularly true in situations where there have been previous confrontations with the individual and the administrators can no longer claim that they were “unaware” of the person’s identity (which directly relates to whether or not they are on the premises for a legitimate purpose) and whether or not they possess a valid CPL.

BOARD MEETINGS

The subject of firearms at board meetings has also become an issue and, in general, the same rules apply; a CPL licensee has a legal right to open carry a firearm at any school board meeting that is being held on school property. This includes any building owned by the district, even if it is not, technically, a school (such as an administration building). Likewise, board members should be advised that public meetings held at facilities which are not owned by the district, such as a local township hall, are likely not subject to the restrictions outlined in any of the three Michigan statutes: meaning that the average citizen can open carry to the meeting while the CPL licensee can conceal carry, so long as the meeting place does not also happen to be a “gun free zone” or “pistol free zone.”

The subject of guns at board meetings is particularly worrisome because of the added factor that contentious issues are often discussed and tempers can sometimes flair (the same rationale that applies to banning weapons at sports arenas). Obviously, an outspoken individual who also happens to have a gun with them can make others in attendance feel very ill-at-ease. This can also have a chilling effect on dialogue and inhibit the free discussion of thoughts, opinions and ideas. There is also the fear that the intimidation factor might influence a board member’s vote. Never-the-less, the law protecting a person’s open carry rights remains.

However, an individual’s legal right to open carry a firearm does not mean that they cannot be ordered to leave a meeting should their behavior be deemed threatening or otherwise inappropriate. The same rules that apply to the community at large also apply to a CPL licensee carrying a gun with respect to behavior and decorum. People behaving badly can be kicked-out. If called upon to justify the decision to remove the individual, the board should always cite the person’s behavior, not the fact that they were carrying a gun. Likewise, banning any

particular individual from attending future board meetings should be based upon the behavior of the individual, not the fact that they were carrying a firearm.

Frankly, whether or not an individual is behaving in a "threatening" manner, and how much of that perception is influenced by the fact that they are also carrying a gun, is a matter of individual perception. While it is within the discretion of the board to "remove" a disruptive individual from a meeting, anyone present at the meeting can decide on their own to involve the police. Moreover, while the police will generally uphold an individual's right to openly carry a firearm, they will also normally err on the side of caution when a person with a gun is also being accused of acting in a threatening or confrontational manner.

Finally, any individual who appears to "brandishing" their weapon or otherwise presenting it in a manner which appears to be for the purpose of threatening or intimidating another individual is breaking the law and the police should be called immediately. Obviously, simply carrying a weapon in a hip holster or by some other visible means is not, in-and-of-itself, "brandishing." However, any suggestion or gesture by the individual carrying the weapon that they may be inclined to draw it, particularly in a situation which would not otherwise justify such (i.e. an individual's life is in danger, a crime is being committed, etc.) should be met with an immediate instruction that they leave the meeting. If they refuse, the police should be called.

SO WHAT DO WE DO?

The first time an unknown individual enters school grounds with an open weapon, school officials are certainly within their rights to immediately call the police as, at that point, neither the intent of the individual nor their legal right to possess and carry a firearm is known. Obviously, personally confronting such an individual has its own inherent risks and administrators must evaluate the situation carefully. This is particularly true in circumstances where the individual does not approach school administrators preemptively regarding the weapon and does not attempt to explain their purpose for having the weapon or produce proof that they possess a valid CPL.

However, once this particular individual is known to both the administration and the local police, and it has been established that they have a legitimate purpose to be on the grounds, it will become increasingly more difficult to justify having the police become involved. While the "intent" of a person can never be "known" by others, police agencies will generally lose interest in taking part in an ongoing dispute between a school district and a CPL licensee who is acting within their rights: especially if, in prior interactions, the individual did not appear to be a threat (beyond the fact that they are carrying a firearm). Indeed, some law enforcement agencies have threatened to begin charging districts for responding to repeat calls concerning the same individual.

Despite all of this, however, there remain some options available to school districts when it comes to controlling guns on school property:

SPEAK TO THE INDIVIDUAL

Attempting to approach an individual who is openly carrying a firearm on school property and explaining the districts concerns is always an option; but understand that many people who have already made the decision to openly carry a gun into a school are doing so with a predetermined agenda. Generally, their agenda does not include "compromising" what they believe to be a legal right. Never-the-less, it never hurts to develop a rapport with the individual (especially if they are a parent in the district) and let them know that their decision to openly carry a gun makes teachers, parents and children nervous which can have a "ripple effect" throughout the community.

ENFORCE LOITERING RULES

Individuals who appear to be "loitering" can always be asked to leave the premises and, if they refuse, the police should be called. Unknown individuals that appear to be loitering and are also armed, generally warrant an immediate call to the police and should be approached, if at all, cautiously. What constitutes "loitering" is obviously open for debate, and good judgment should be used.

A person who arrives to pick-up their child ten minutes prior to the end of the school day probably wouldn't be considered loitering during those ten minutes, while someone who shows up an hour early, probably would be. Loitering policies should be enforced evenly and sensibly, without an intent to target or antagonize any particular group.

ENFORCE SPORTS ARENA BAN

One other option that schools may consider is to ban weapons from sporting events. At present, the law is unclear with respect to what constitutes "a sports arena." As such, a justifiable argument can be made that schools are within their rights to ban the possession of all firearms at any sporting event played at any arena type facility (i.e. a gymnasium, an indoor track facility or an outdoor field with bleachers) under the "gun free zone" rule outlined in MCL 750.234d. It is recommended that the school post the prohibition at the entrances to the venue as well as cite the law (see below). Likewise, it would be wise to contact the local law enforcement agency beforehand and explain your district's stance on this law as well as your intent to enforce the "sports arena" provision, so as to reduce the possibility of confusion if/when the time comes to involve them.

For more information on any of these cases contact Joel Gerring, MASE Assistant Legal Counsel at 517.327.5922 or jgerring@masb.org.

ATTENTION:

ALL FIREARMS ARE BANNED IN THIS SPORTS ARENA.

Pursuant to Michigan Law it is illegal for individuals, including those who possess a concealed pistol license (CPL), to possess a firearm on the premises of a sports arena.

MCL 750.234d Possession of firearm on certain premises prohibited; applicability; violation as misdemeanor; penalty.

(1) Except as provided in subsection (2), a person shall not possess a firearm on the premises of any of the following:

- (a) A depository financial institution or a subsidiary or affiliate of a depository financial institution.
- (b) A church or other house of religious worship.
- (c) A court.
- (d) A theatre.

(e) A sports arena.

(f) A day care center.

(g) A hospital.

(h) An establishment licensed under the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws.

(2) This section does not apply to any of the following.

(a) A person who owns, or is employed by or contracted by, an entity described in subsection (1) if the possession of that firearm is to provide security services for that entity.

(b) A peace officer.

(c) A person licensed by this state or another state to carry a concealed weapon.

(d) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is with the permission of the owner or an agent of the owner of that entity.

(3) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

ADMINISTRATION COMMITTEE MINUTES
AUGUST 29, 2016

A meeting of the Administration Committee of the City Council of the City of Harbor Beach was held on Monday, August 29, 2016 at City Hall. The meeting was called to order at 6:22 p.m. by Mayor Booms.

Present: Kleinknecht, Swartz, and Mayor Booms

Absent: None

It was moved by Swartz, seconded by Kleinknecht to approve the Agenda with the addition of item f. Demolition of Salt Barn and item g. Scrap Tire Asphalt, Under New Business. Motion carried. 3 yeas.

CITIZEN COMMENT: None.

NEW BUSINESS: City Director Wruble explained fossil fuel redevelopment grant opportunities which are available to communities affected by the closing of fossil fuel plants. The City of Harbor Beach has applied for a grant in the amount of \$100,000.00 to be funded by DTE in the amount of \$50,000.00 and the EDA in the amount of \$50,000.00.

It was moved by Kleinknecht, seconded by Swartz to recommend to Council that they approve the Knights of Columbus request to hold their Tootsie Roll Drive on October 7th and 8th from 9:00 a.m. to 6:00 p.m. Motion carried. 3 yeas.

Hiring a DPW employee was discussed and will be revisited at the next committee meeting.

DTE Smart Meters were discussed. No action was taken.

An employee's request to carry a firearm open or concealed was discussed. It was moved by Booms, seconded by Swartz to recommend to Council to modify the Personnel Manual to prohibit open carry of a firearm as the City's Personnel Manual already prohibits employees from carrying a concealed weapon while on duty. Motion carried 3 yeas.

Demolition of the old salt barn was discussed. Superintendent Jurgess would like to solicit bids for the demolition of the building. The Committee requested that he investigate the possibility of the DPW demolishing the building.

Superintendent Jurgess reported that there are grants available for the purchase of asphalt. The asphalt purchased must contain scrap tires. Superintendent Jurgess is in the process of obtaining the paperwork for the grant process.

There being no further business, it was moved by Swartz, seconded by Kleinknecht that the meeting be adjourned at 6:48 p.m.

Leslie A. Woycehoski, Clerk

Can you legally open carry a firearm in Michigan?

Yes. There is no state law specifically stating that citizens can open carry firearms but there is no state law that expressly prohibits it. Therefore, this has been interpreted to mean that open carry is allowed in this state -- with a few exceptions.

Exceptions? What type of exceptions?

State law, MCL 750.234d, makes it a 90 day misdemeanor to possess a firearm at eight different gun-free zones, including:

- A depository financial institution such as a bank or credit union
- A church or other place of worship
- A court
- A theater
- A sports arena
- A daycare center
- A hospital
- An establishment licensed under the liquor control code.

But, again, there are exceptions. People hired as security guards, peace officers, people who possess firearms with the permission of the owner and people with valid concealed pistol licenses issued by any state may open carry at these locations.

Speaking of people with CPLs, is there a limit on where people with those licenses can take their guns?

Yes. State law, MCL 28.425o, prohibits people with a CPL from carrying concealed weapons in nine pistol-free zones, including:

- School or school property unless it's a parent or legal guardian dropping off or picking up a child and the pistol is kept in the vehicle
- Public or private daycares
- Sports arenas or stadiums
- A bar or tavern where sales and consumption of liquor by the glass is the primary source of income
- Any property or facility owned or operated by a church or religious organization unless authorized by the presiding official
- An entertainment facility with seating for 2,500 or more
- A hospital
- A dormitory or classroom of a community college, college or university
- A casino

Are there exceptions to those CPL limits?

Yes. The statute only applies to CPL holders carrying a concealed pistol. The statute does not apply to CPL holders who are open carrying.

So, CPL holders can open carry in gun-free and pistol-free areas?

Yes.

Schools aren't specifically listed as gun-free zones where open carry is prohibited. Can anyone open carry there?

No. State law [MCL 750.237a](#) makes it a 93-day misdemeanor to possess a weapon at schools which are designated as weapon-free zones. However, this law does not apply to security personnel hired by the school, peace officers, those with permission from the school's administration or people with a CPL. There are also a number of exemptions for people who are transporting students to or from the school.

Federal law 18 U.S.C. § 922 also places limits on the ability to carry firearms into school zones for those without CPLs.

So, people with CPLs can take guns to schools but cannot have them concealed?

Correct. Open carry is the only option available to them.

Is anyone trying to change the law to prevent CPL holders from open carrying at schools?

Yes. Rep. Andy Schor, D-Lansing, introduced HB 4104 in January. Schor said his bill would create "true gun-free zones" by eliminating the "loophole" that allows CPL holders to open carry at schools.

Schor said the bill has received support from the Michigan Education Association as well as associations that represent public libraries and police officers.

Is there anyone who opposes the change?

Yes. Phillip Hofmeister, the president of Michigan Open Carry, a group that advocates for the open carry of firearms, said after the bill was introduced that the state law should not be changed.

"I think people need to have a way to protect themselves wherever they go, and because of current pistol-free zones, it's the only way people can protect themselves in some places," Hofmeister said.

What is the current status of the bill?

It was assigned to committee in January, but there have been no hearings held on the issue.

**RESOLUTION # 2016-92
AMENDING THE CITY OF HARBOR BEACH
PERSONNEL MANUAL TO
PROHIBIT OPEN CARRY OF FIREARMS BY EMPLOYEES**

At a regular meeting of the City Council of the City of Harbor Beach held on Tuesday, September 6, 2016 at City Hall and called to order at 7:00 p.m. by Mayor Booms, the following Resolution was presented:

Present: _____

Absent: _____

It was moved by _____ and seconded by _____ to adopt the following Resolution:

WHEREAS, the Administration Committee of the City of Harbor Beach is recommending to Council that they amend the City of Harbor Beach Personnel Manual to include prohibiting employees from open carrying of a firearm while on duty for the City of Harbor Beach;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Harbor Beach approves amending the City of Harbor Beach's Personnel Manual to include prohibiting employees from open carrying of a firearm while on duty for the City of Harbor Beach:

YEAS: _____

NAYS: _____

ADOPTED: _____

Leslie A. Woycehoski, Clerk

CLERK'S CERTIFICATION

State of Michigan }
County of Huron } ss
City of Harbor Beach }

I, Leslie A. Woycehoski, Clerk of the City of Harbor Beach, do hereby certify that the foregoing Resolution was adopted on Tuesday, September 6, 2016 at a regular meeting of the City Council of the City of Harbor Beach.

Leslie A. Woycehoski, Clerk

pursuant to this policy will be held in confidence to the maximum possible extent. The City will not tolerate retaliation against any employee reporting a violation of this policy.



Concealed Weapons

Except for City Police Officers, employees may not carry a concealed weapon, as defined by the State's Concealed Weapons Act, while on-duty, regardless of whether or not an employee has obtained a license to carry a concealed weapon. On-duty is defined as the hours between which an employee reports for work and the time the employee leaves work, including overtime work and call-outs, emergencies and required attendance at meetings of the City of Harbor Beach whether such meetings occur during or after normal working hours.



Safety and Right to Know

Each employee must be familiar with applicable safety rules and operating guidelines associated with their department and the machinery and equipment required of their work.

No employee should perform any work tasks or take any action which may endanger the employee, another employee or the public. If an employee is in doubt about the safeness of a situation, the employee should report his/her concerns to their supervisor prior to engaging in the activity.

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Hours of Work

A normal workweek for non-union staff typically consists of 40 productive work hours, with additional time for meal and rest breaks. Union contracts may specify hours of work, consult those documents for specifics.

An employee's hours of work may be rescheduled to satisfy workload demands, operational needs, or to accommodate special requests. An employee

**OFFICIAL COUNCIL PROCEEDINGS
SEPTEMBER 6, 2016**

A regular meeting of the City Council of the City of Harbor Beach was held on September 6, 2016 at City Hall. The meeting was called to order at 7:00 p.m. by Mayor Booms.

Present: Capling, Kleinknecht, Swartz, Woodke, and Mayor Booms
Clerk Woycehoski and City Director Wruble

Absent: None

It was moved by Woodke, seconded by Kleinknecht to approve the Agenda with the addition of item c. SAW Grant and item d. Action Plan Update, under New Business. Motion carried. 5 yeas.

It was moved by Capling, seconded by Woodke to approve the minutes of the August 15, 2016 Council meeting, the August 29, 2016 Water Committee meeting and the August 29, 2016 Administration Committee meeting as presented. Motion carried. 5 yeas.

APPROVAL OF BILLS: It was moved by Kleinknecht, seconded by Capling to approve payment of the September 2016 Bills in the amount of \$329,779.51. Motion carried. 5 yeas.

It was moved by Swartz, seconded by Kleinknecht to approve payment of a Bond Payment in the amount of \$22,258.54. Motion carried 5 yeas.

It was moved by Woodke, seconded by Capling to approve payment of the Village of Forestville bill in the amount of \$673.80. Motion carried. 5 yeas.

It was moved by Swartz, seconded by Kleinknecht to approve payment of the Booms Rent-All bill in the amount of \$108.90. Motion carried. 4 yeas. 1 abstain (Mayor Booms).

It was moved by Kleinknecht, seconded by Woodke to approve payment of J-Lyn Charters bill in the amount of \$1,825.00. Motion carried. 5 yeas.

It was moved by Capling, seconded by Kleinknecht to approve payment of the Chris Ginther bill in the amount of \$2,000.00. Motion carried. 5 yeas.

It was moved by Swartz, seconded by Kleinknecht to approve payment of the Booms Rent-All bill in the amount of \$82.60. Motion carried. 4 yeas. 1 abstain (Mayor Booms).

It was moved by Woodke, seconded by Capling to approve payment of the Cooperative Elevator bill in the amount of \$705.60. Motion carried. 5 yeas.

CITIZEN COMMENT: Casey Armitage questioned why the City is passing a resolution to amend the City of Harbor Beach personnel manual to not allow open carry of firearms by employees. She asked for more time to gather more information. The Council and Police Chief explained their position.

UNFINISHED BUSINESS: None.

NEW BUSINESS: Resolution # 2016-92, "Amending the City of Harbor Beach Personnel Manual to Prohibit Open Carry of Firearms by Employees" was presented to Council. It was moved by Kleinknecht, seconded by Woodke to adopt Resolution # 2016-92 as presented. The Resolution reads as follows: WHEREAS, the Administration Committee of the City of Harbor Beach is recommending to Council that they amend the City of Harbor Beach Personnel Manual to include prohibiting employees from open carrying of a firearm while on duty for the City of Harbor Beach;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Harbor Beach approves amending the City of Harbor Beach's Personnel Manual to include prohibiting employees from open carrying of a firearm while on duty for the City of Harbor Beach. Motion carried. 5 yeas.

It was moved by Swartz, seconded by Kleinknecht to approve the Knights of Columbus request to hold their Tootsie Roll Drive on October 7th and 8th from 9:00 a.m. to 6:00 p.m. Motion carried. 5 yeas.

It was moved by Capling, seconded by Woodke to approve Superintendent Roggenbuck's request to move forward with acceptance of the SAW Grant. Motion carried. 5 yeas.

Council was updated regarding the action plan being put in place by the City.

COUNCIL REPORTS: Council Member Swartz provided City Director Wruble with an article regarding a grapefruit solution to get rid of geese, provided Council with a Farmer's Market update and let City Director Wruble how nice North Park looked over Labor Day weekend. He also let City Director Wruble know that there is a light out in the Park, asked about the Wi-Fi and the wood supply.

Mayor Booms updated Council on the Salsa Festival and reminded everyone about the September 17th festivities which include the Gazebo Dedication, Car Giveaway and the Harvest Festival and Chili Cook Off.

There being no further business, it was moved by Swartz seconded by Woodke to adjourn the meeting at 7:57 p.m.

Leslie A. Woycehoski, Clerk

September 19, 2016

Council Members

I spoke with Det. Daryl Ford and Deputy Ryan Swartz reference the CPL licensing requirements. Deputy Swartz owns and operates his own CPL licensing business. He stated the minimum training requirements for a person to obtain their CPL license is 3 hrs of class time which includes 30 rounds of live fire. Accuracy does not matter. Although I believe Ryan Swartz goes above and beyond the minimum requirements, this is the minimum the State requires.

I have also listed the firearms training that our Police Department goes through below. You must also take in account that Police Officers must train 90 hours with their firearm in the police academy to become MCOLES certified.

I also thought about other factors that should come into consideration;

*Holster- some holsters (all police holsters) have a locking device; the gun can't fall out or come out without a certain button and/or certain motion to release the firearm. Would we mandate what type of holster a person would have to use?

*Weapon retention-I believe a person who carries a firearm should be trained in weapon retention. Would we have to provide weapon retention training for employees that would like to carry firearms?

*Under Article XXVI. General, of the contract it states; "The City will be responsible for reasonable property claims due to employee's loss, or theft, or damaged in the line of duty of employee's personal property". Due to the nature of many of our employee's job, if their firearms are damaged (scratched, wet, dropped, etc.) will we (the City) be responsible for the repairs. Or, if they know they will be doing a job that is likely to cause damage to their firearm, where will they safely store it until that job is completed?

*If we allow one City employee to carry a firearm, we would have to allow all employees to carry a firearm.

These are just a few questions I feel we would have to address.

Minimum Training to Obtain a CPL (concealed pistol license)

Minimum of three (3) hours of range time and minimum of 30 rounds of live fire (accuracy does not count/matter).

Harbor Beach Police Department Training

90 Hours of firearms training in the Police Academy to become MCOLES certified.

MCCOLES approved training annually (accuracy matters)

Don't shoot/shoot situations

Barricaded shooting

Off -hand shooting

Shooting from different positions (kneeling, standing, etc.).

Moving & stationary shooting drills

Moving & stationary malfunctions

Long distance shooting

Close range shooting

Less lethal options

Active shooter training

Use of cover & concealment

Cold weather shooting

SIMS training

Low light conditions

High stress scenarios (blood pressure raised by running before shooting)

Weapon retention

Chief Todd Bucholtz

OFFICIAL COUNCIL PROCEEDINGS
SEPTEMBER 19, 2016

A regular meeting of the City Council of the City of Harbor Beach was held on Monday, September 19, 2016 at City Hall. The meeting was called to order at 7:00 p.m. by Mayor Booms.

Present: Capling, Kleinknecht, Swartz, Woodke and Mayor Booms
Clerk Woycechoski and City Director Wruble

Absent: None

It was moved by Swartz, seconded by Woodke to approve the Agenda with the addition of item c. Gerace Construction Co., Inc. Application and Certificate for Payment in the amount of \$152,379.72, under Approval of Bills, and item a. Resolution #2016-93, "Approving Sandblasting and Painting of the Steel on the Backus Trail West Bridge", item b. Motion to Approve Homecoming Parade to be Held on October 14, 2016 at 6:00 p.m. and item c. Action Plan Update, under New Business. Motion carried. 5 yeas.

It was moved by Capling, seconded by Kleinknecht to approve the minutes of the September 6, 2016 Council meeting as presented. Motion carried. 5 yeas.

APPROVAL OF BILLS: It was moved by Woodke, seconded by Kleinknecht to approve payment of the bill to Vanierian Painting in the amount of \$7,000.00. Motion carried. 5 yeas.

It was moved by Kleinknecht, seconded by Capling to approve payment of the bill to Ferris & Schwedler, PC in the amount of \$120.00. Motion carried. 5 yeas.

It was moved by Swartz, seconded by Capling to approve payment of the Gerace Construction Co., Inc. Application and Certificate for Payment in the amount of \$152,379.72. Motion carried. 5 yeas.

CITIZEN COMMENT: Casey Armitage, City Crossing Guard, discussed why she should be allowed to open carry a firearm while on job.

Sue Lloyd questioned whether City Employees would be allowed to carry a firearm outside City Hall. The Mayor explained that the Employee Personnel Manual prohibits employees from concealed or open carrying of a firearm while on duty for the City of Harbor Beach.

Joann Sutton voiced her opinion on carrying of a firearm by a crossing guard and asked how long the crossing guard would continue to be allowed to carry a firearm. It was explained to Joann that the Personnel Manual has already been changed to prohibit employees from concealed or open carrying of a firearm while on duty for the City of Harbor Beach.

Adam Armitage voiced his opinion on the matter of employees carrying firearms.

Brandon Haney asked, if knowing that other municipalities do not have a policy regarding employees carrying firearms, if it would change Council's decision.

Council Member Swartz reported that Dave Hunter complimented the DPW on keeping the streets clean and asked that residents be reminded to keep grass clippings out of the streets. He also reported that Speedy Q did not participate in the Chili Cook Off because they were unsure who is liable if someone gets sick.

UNFINISHED BUSINESS: None.

NEW BUSINESS: Resolution # 2016-93, "Approving Sandblasting and Painting of the Steel on the Backus Trail West Bridge" was presented to Council. It was moved by Capling, seconded by Woodke to adopt Resolution # 2016-93 as presented. The Resolution reads as follows: **WHEREAS**, City Director Wruble is requesting to sandblast and paint the steel on the west bridge on the Backus Trail; and

WHEREAS, City Director Wruble received several quotes; and

WHEREAS, City Director Wruble is recommending that the City hire Mike Smalley to sandblast and paint the steel on the west bridge on the Backus Trail at a cost of \$1,350.00;

ADMINISTRATION COMMITTEE MINUTES
OCTOBER 10, 2016

A meeting of the Administration Committee of the City Council of the City of Harbor Beach was held on Monday, October 10, 2016 at City Hall. The meeting was called to order at 6:00 p.m. by Mayor Booms.

Present: Kleinknecht, Swartz, and Mayor Booms

Absent: None

It was moved by Swartz, seconded by Kleinknecht to approve the Agenda with the addition of item c, Firewood, Under New Business. Motion carried. 3 yeas.

CITIZEN COMMENT: Mayor Booms commented on controversy on what he said at a previous meeting regarding the Citizen Comment portion of meetings. Mayor Booms clarified that he has never not allowed someone to speak during Citizen Comment, he has never set a limit and allows people to speak during the New Business portion of the meeting.

Casey Armitage read from emails she sent to City Director Wruble.

David Dellinger of Michigan Open Carry, Inc. commented that he was there to show support for Casey.

NEW BUSINESS: The portion of the City's Personnel Manual regarding concealed and open firearms was discussed with Casey Armitage. It will be discussed again at an Administrative Committee meeting to be held on Monday, October 24, 2016 at 6:00 p.m.

Clerk Woyechoski reported on the progress of the Ethics Policy. She reported that she hopes to have a draft policy for the next Administrative Committee meeting.

City Director Wruble is requesting to contract Ron Swartz to split firewood. It was moved by Swartz, seconded by Kleinknecht to recommend to Council that they approve contracting Ron Swartz to split firewood with payment being load for load of the firewood going to Mr. Swartz. Motion carried. 3 yeas.

There being no further business, it was moved by Swartz, seconded by Kleinknecht that the meeting be adjourned at 7:10 p.m.

Leslie A. Woyechoski, CMMC

**OFFICIAL COUNCIL PROCEEDINGS
OCTOBER 3, 2016**

A regular meeting of the City Council of the City of Harbor Beach was held on Monday, October 3, 2016 at City Hall. The meeting was called to order at 7:00 p.m. by Mayor Booms.

Present: Capling, Kleinknecht, Swartz, Woodke and Mayor Booms
Clerk Woycehoski and City Director Wruble

Absent: None

It was moved by Woodke, seconded by Swartz to approve the Agenda as presented. Motion carried. 5 yeas.

APPROVAL OF MINUTES: It was moved by Swartz, seconded by Kleinknecht to approve the September 19, 2016 Council meeting minutes, the September 26, 2016 DPW Committee meeting minutes, the September 26, 2016 Police Committee meeting minutes and the September 26, 2016 Administration Committee meeting minutes as presented. Motion carried. 5 yeas.

APPROVAL OF BILLS: It was moved by Swartz, seconded by Woodke to approve the October 2016 bills in the amount of \$355,723.28. Motion carried. 5 yeas.

It was moved by Kleinknecht, seconded by Capling to approve payment of the J-Lyn Charter bill in the amount of \$2,000.00. Motion carried. 5 yeas.

It was moved by Woodke, seconded by Kleinknecht to approve payment of the Booms Rent-All bill in the amount of \$70.00. Motion carried. 4 yeas. 1 abstain (Mayor Booms).

It was moved by Swartz, seconded by Woodke to approve payment of the Bischer Ready Mix Inc. bill in the amount of \$392.00. Motion carried. 5 yeas.

It was moved by Woodke, seconded by Capling to approve payment of the Mooretel1.com bill in the amount of \$400.00. Motion carried. 5 yeas.

It was moved by Capling, seconded by Kleinknecht to approve payment of the Woodke Builders bill in the amount of \$225.00. Motion carried. 4 yeas. 1 abstain (Woodke).

CITIZEN COMMENT: Casey Armitage asked for a specific date and time when she and any other people that want to discuss the employee personnel manual regarding open/concealed carry of firearms could meet with Council Members. She was told an Administrative Committee meeting would be scheduled for October 10, 2016 at 6:00 p.m. to discuss the above matter.

Al Backus commented that he thinks employees should be allowed to carry firearms.

UNFINISHED BUSINESS: None.

NEW BUSINESS: Resolution # 2016-94, "Traffic Order No. 144-S" was presented to Council. It was moved by Kleinknecht, seconded by Capling to adopt Resolution # 2016-94 as presented. The Resolution reads as follows: WHEREAS, Chief Bucholtz is requesting approval of Traffic Control Order No. 144-S to place a "STOP" sign at the intersection of Garden Street at Whitecomb Street stopping the flow of traffic eastbound and westbound on Garden Street. This action would make this a four-way stop intersection; and

WHEREAS, Chief Bucholtz and the Police Committee are recommending approval of Traffic Control Order No. 144-S.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Harbor Beach approves Traffic Control Order No. 144-S. Motion carried. 5 yeas.

Resolution # 2016-95, "USDARD Grant" was presented to Council. It was moved by Swartz, seconded by Woodke to adopt Resolution # 2016-95 as presented. The Resolution reads as follows: WHEREAS, the Harbor Beach Police Department is in need of a police car; and

WHEREAS, Chief Bucholtz is requesting authorization to proceed with applying for a USDARD Grant for a new patrol car; and