

CITY OF FARMINGTON

FREEDOM OF INFORMATION ACT PUBLIC SUMMARY

General Principles and Purpose

The City of Farmington establishes this Written Public Summary of its Freedom of Information Act (FOIA) Procedures and Guidelines for the benefit of the general public. Under Michigan law, it is the public policy of this state that all persons, except an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility, are entitled to full and complete information regarding the affairs of government and the official acts of public officials and employees.

How to Submit a Written Request

A person desiring to inspect, copy, or receive copies of a public record must submit a written request describing the record sufficiently to enable City personnel to find it. Unless the requesting person is an individual who qualifies as indigent, every request must include the requester's complete name, address formatted in compliance with United States Postal Service standards, and contact information consisting of a valid telephone number or email address. If the request is submitted by an entity other than an individual, such as a corporation, partnership, firm, or organization, the request must include the complete name, address, and contact information of the entity's individual agent.

Requests may be submitted in person at Farmington City Hall, mailed to 23600 Liberty Street, Farmington, MI 48335, transmitted by facsimile, or emailed directly to the City Clerk, who serves as the designated FOIA Coordinator. A requester may stipulate that public records be provided on nonpaper physical media or delivered electronically and may subscribe to future issuances of records disseminated on a regular basis for up to six months. The FOIA does not require the City to make a compilation, summary, or report of information, or create a new public record.

Understanding City Responses and Extension Determinations

The City must respond to a written request within five business days after receipt. A request transmitted electronically is considered received one business day after transmission, and a request delivered to a City spam or junk-mail folder is considered received one day after the City first becomes aware of it. In its initial response, the City will grant the request, deny the request in whole or in part, or issue a notice extending the response period by not more than 10 business days.

If a request is denied in whole or in part, the City must issue a written notice signed by the FOIA Coordinator or designee containing an explanation of the statutory exemption relied upon; a certificate of nonexistence if the record does not exist; a description of separated or deleted

information; and a full explanation of the requester's statutory rights to appeal and seek judicial review.

Good-Faith Fee Deposit Requirements

If a good-faith calculation of the total fee exceeds \$50.00, the City may require a good-faith deposit not exceeding one-half (50%) of the total estimated fee before providing records. The deposit notice must include the City's Detailed Cost Itemization Form and a nonbinding best-efforts estimate of the fulfillment timeframe. The requester must remit the required deposit within 45 days after statutory receipt of the notice (with notice statutorily deemed received three days after transmission, establishing a 48-day deadline from sending); otherwise, the request is considered abandoned and the City is no longer required to fulfill it.

The City may require an increased deposit of up to 100% of the estimated fee from an individual who has failed to pay in full for a previously granted and fulfilled request, subject to statutory conditions.

Calculation of Lawful Fees and Reductions

All fees charged by the City are strictly limited to actual costs and must not exceed the sum of six allowable components: labor directly associated with searching, locating, and examining records; employee or contracted labor directly associated with separating and deleting exempt information; the actual cost of nonpaper physical media; paper copying costs capped at 10 cents per sheet for letter or legal paper; labor directly associated with duplication or publication; and actual mailing costs. Search labor and redaction labor may not be charged unless failure to charge would result in unreasonably high costs to the City in that particular instance. Labor costs cannot exceed the hourly wage of the lowest-paid City employee capable of performing the work, calculated in increments of 15 minutes or more rounded down for search and redaction, and in increments of one minute rounded down for duplication.

If contracted labor is utilized for redaction, total labor costs are capped at six times the state minimum hourly wage and cannot include fringe benefits. For City employees, the actual fringe benefit multiplier up to 50% may be added, but overtime wages shall not be included in labor costs unless overtime is specifically stipulated by the requester, and overtime wages can never be used in calculating fringe benefit costs.

Public records available on the City's official website at the time of the request are exempt from redaction charges and must be separated from non-website records on the itemization form. However, if the City informs the requester of the specific webpage address and the requester nevertheless stipulates that the public record be provided in paper format or nonpaper physical media, the City is authorized to charge duplication and mailing costs and may use a fringe benefit multiplier greater than the 50% limitation, not to exceed actual costs. If the City fails to respond in a timely manner, it must reduce labor costs by 5% per day late, up to a maximum reduction of 50%.

Statutory Fee Waivers and Discounts

Statutory fee discounts of \$20.00 apply to qualifying requests. An indigent individual who submits an affidavit demonstrating receipt of public assistance or showing inability to pay is entitled to a \$20.00 discount for up to two requests per calendar year, provided the request is not made in conjunction with outside parties offering payment or remuneration. A \$20.00 discount also applies to requests from formally designated nonprofit protection and advocacy agencies operating under federal and state protection and advocacy statutes.

Avenues for Challenge, Appeals, and Judicial Remedies

If the City denies all or a portion of a request, the requesting person may exercise one of two options: submit to the Farmington City Council, as the head of the public body, a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal; or commence a civil action in the Oakland County Circuit Court to compel disclosure within 180 days after the final determination to deny the request. The City Council is not considered to have received the appeal until its next regularly scheduled meeting following submission. Within 10 business days after that meeting, Council must reverse the disclosure denial, issue a written notice upholding the denial, reverse in part and uphold in part, or issue a single notice extending the response period for not more than 10 business days under unusual circumstances. If the City Council fails to respond to a written appeal or upholds all or a portion of the disclosure denial, the requesting person may seek judicial review of the nondisclosure by commencing a civil action in the Oakland County Circuit Court within 180 days after the final denial.

If a requester believes that a required fee or deposit exceeds the lawful amount permitted, the requester may submit a written appeal specifically states the word "appeal" to the City Council within 45 days after receiving notice of the required fee or deposit, identifying how the fee exceeds permissible limits. Council is deemed to receive the appeal at its next regularly scheduled meeting and must, within 10 business days, waive the fee, reduce the fee with a certified written determination, uphold the fee with a certified written determination, or issue a single 10-business-day extension notice with detailed reasons. The requester may commence a civil action in the Oakland County Circuit Court for a fee reduction within 45 days after a determination of an administrative appeal by the City Council (or within 45 days after Council was required to respond if it failed to act).

In a disclosure denial action, if the court orders disclosure, it must award reasonable attorney fees, costs, and disbursements; and if the court determines that the City arbitrarily and capriciously violated the Act by refusal or delay, the court shall order the City to pay a mandatory civil fine of \$1,000.00 and shall award mandatory punitive damages of \$1,000.00 to the requester. In fee actions, if the requester prevails by receiving a reduction of 50% or more of the total fee, the court may award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements; and if the court determines that the City arbitrarily and capriciously violated the Act by charging an excessive fee, the court shall order a mandatory civil fine of \$500.00 and may also award discretionary punitive damages of \$500.00. Additionally, if the court determines in any action commenced under the Act that the City willfully and intentionally failed to comply or otherwise

acted in bad faith, the court shall order the City to pay an additional civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence.

Free copies of the Procedures and Guidelines and this Written Public Summary are available on the City's website at www.farmgov.com and upon request at Farmington City Hall.