

# **FORSYTH TOWNSHIP**

## **FREEDOM OF INFORMATION ACT**

### **Policy & Procedure Guide**

Adopted by: Forsyth Township Board

February 26, 2015

(Amended 2-23-23)

The Michigan Freedom of Information Act (FOIA) requires that public bodies grant full and complete access to information regarding the affairs of their operations. This Act provides for public access to certain records; permits certain fees; prescribes the powers and duties of certain public officers; and provides remedies, penalties and repeals to certain acts and parts of acts.

The Freedom of Information Act is designed to implement a strong state policy that all records maintained by government, unless exempted, are to be made available to the public upon request.

As a public body, Forsyth Township, is required to assure that all persons (*except those incarcerated in state or local correctional facilities*) are entitled to full and complete information if the procedures of the Act are followed. Information covered under the FOIA include business transactions and paperwork maintained, received, and generated as part of the governmental unit.

A person requesting to inspect public records will be provided a scheduled appointment date and time during regular office hours. This is so employees can gather the documents and provide an area for inspection. On rare occasions it may be necessary to schedule an appointment outside of regular office hours. This will be accommodated providing both parties agree to the appointment time.

### **PURPOSE**

The purpose of this policy is to assure compliance with the Freedom of information Act as required and permitted by statutes.

### **RECEIVEING REQUEST**

1. FOIA Coordinator: The Forsyth Township Clerk, or his/her designee, is the designated FOIA Coordinator.
2. FOIA requests must be stamped "received", initialed, dated, and given to the FOIA Coordinator immediately. The FOIA Coordinator must be notified of any extraordinary requests prior to processing. (*Extraordinary examples: a large volume of material, information requested covers many years and may require considerable staff/computer time, the estimated cost will be over \$25.00, etc.*).
3. Requests for departmental information that is furnished to the general public on a regular basis, should not be treated as a FOIA request. Examples of this type of information are documents that are available on the township website, pamphlets, loose-leaf publications, and other printed materials produced for public information and disclosure. In addition, departmental guidelines, manuals and forms, adopted or used by the agency in the discharge of its functions should also be made available without a FOIA request, providing they are not eligible for exemption.

4. All denials under this act must be authorized by the FOIA Coordinator and must cite the reason for denial.
5. Requests under the FOIA must meet the following requirements:
  - a. All FOIA requests must be submitted in writing. They must include the requestor's complete name, address written in compliance with United States Postal Service and telephone number or email address. Corporate entities who request records under the FOIA must provide this information for a company's agent. A request that does not contain this information may be denied as invalid. If you require assistance with writing or translating, please contact the FOIA Coordinator. Requests received by facsimile, electronic mail, or other electronic means are considered received the first business day following the transmittal. Should an electronic email be delivered to a spam or junk mail folder, the time period will begin one day after the public body becomes aware of the electronic request.
  - b. The requested information must be identifiable. The written request should describe the public record sufficiently to enable the public body to find the public record.
  - c. The requested document and/or information must exist.
  - d. The requested records should not be exempt from disclosure under the Act as referenced in MCL 15.243.
  - e. The FOIA request can be a single (*one-time*) request or a renewable subscription request (*information disseminated on a regular basis for up to six months*).
  - f. Prisoners in state, county, or federal correctional facilities are not entitled to make requests.

#### **RESPONDING TO REQUEST**

1. The appropriate department and/or the FOIA Coordinator shall determine the scope of the FOIA request. (*e.g. the time required to search for, examine, separate/delete exempt information, and/or copy the requested records*).
2. Forsyth Township may charge fees for reproducing requested records in accordance with Section 4 of the FOIA. (MCL 15.234)
  - a. Forsyth Township will use the established FOIA fees as outlined in the attached fee schedule to estimate the cost of providing the requested information.
  - b. The first \$50 of a fee shall be waived for a person who qualifies as indigent per attached Affidavit of Indigency form.
  - c. The FOIA Coordinator shall periodically review and recommend FOIA fee adjustments to the Forsyth Township Board.

3. In accordance with the Act, unless otherwise agreed to in writing by the person making the request, the request shall be responded to within 5 business days by doing one of the following:
  - a. Process and grant the request
  - b. Issue a written notice to deny the request
  - c. Grant the request in part and issue a written notice to deny the request in part
  - d. Under unusual circumstances (*See MCL 15.232, (g)*), issue a notice to extend the response period by 10 business days
  - e. If the cost of the request is expected to exceed \$50, issue a notice to the requestor to provide a 50% good faith deposit prior to processing the request. If the good faith deposit is not received within 48 days from the date the notice is issued, the request will be considered abandoned.

### **EXEMPTIONS**

Per MCL 15.243, FOIA permits a public body to withhold from public disclosure some specific information. To follow is an incomplete list (please refer to MCL 15.243 for a complete list):

1. Specific personal information about an individual if the release would constitute a clearly unwarranted invasion of that individual's privacy.
2. Investigating records compiled for law enforcement purposes, but only to the extent that disclosure would do any of the following:
  - a. Interfere with law enforcement proceedings,
  - b. Deprive a person of the right to a fair trial or impartial administrative adjudication,
  - c. Constitute an unwarranted invasion of person privacy,
  - d. Disclose the identity of a confidential source or, if the record is compiled by a criminal law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source,
  - e. Disclose law enforcement investigative techniques or procedures,
  - f. Endanger the life or physical safety of law enforcement personnel.
3. Records or information specifically described and exempted by other statutes;
4. Information or records subject to the attorney-client privilege;
5. Information or records subject to physician-patient privilege;
6. Sealed Bids prior to the public opening;
7. Records or information relating to a civil action in which the requesting party and the public body are parties;
8. Social Security Numbers.

## **COSTS**

A public body has the right to charge for information provided under the Freedom of Information Act. Such a charge is limited to actual mailing costs and the actual costs of duplication or publication, including labor and the cost to search, examine, review, and redact exempt information. A fee shall not be charged for the costs of search, examination, review, and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonable high costs to the public body. The Forsyth Township Board defines “unreasonable high costs” as greater than one hour of staff time.

Should an individual have an outstanding debt for a FOIA request that was placed 365 days or less prior to the current request, Forsyth Township will require an individual to pay a deposit of 100% of the estimated fee for the current FOIA request.

Non-Paper Physical Media devices will be provided by the Township. Devices provided may not be used, as they may inadvertently introduce computer viruses into the Township computers.

An individual who submits an affidavit of Indigency is eligible for fee reduction if the following do not apply:

1. The individual has previously received discounted copies two or more times during the past 365 days
2. The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual making the request

## **APPEAL**

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal to the Township Board by a written appeal that specifically states the word “appeal” and identifies the reason or reasons for reversal of the denial, or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If you are successful in asserting the right to inspect or to receive a copy of a public record or a portion of a public record in court, the court will award reasonable attorney fees, cost, and disbursements.

This policy was adopted at a Regular Board Meeting held on February 26, 2015, and amended August 22, 2019. This policy replaces any prior FOIA policies.

**FREEDOM OF INFORMATION ACT  
FEE SCHEDULE**

(Amended 2-23-23)

NOTE: This schedule does not apply to public records prepared by Township Departments or Offices under any act or statute specifically authorizing the sale of those public records to the public or to fees that have been established and approved as part of the Forsyth Township Offices operating revenue.

<b>Type of Reproduction</b>	<b>Cost</b>	<b>Unit</b>
Copies of a Document	\$.10	Per page
Additional Copies of the Same Document	\$.10	Per page
Labor cost incurred in duplication	\$3.63	Per 15 minute unit
Labor cost incurred for search, examination, review and the deletion and separation of exempt from nonexempt information	*\$8.38	Per 15 minute unit
Attorney Costs O’Dea, Nordeen and Pickens PC (not to exceed 6 times states minimum wage rate)	\$15.15	Per 15 minute unit
Non-paper Physical Media (disc, flash drive)	\$6.00 \$0.50	Per Flash Drive Per CD
Envelopes	\$.10, \$.10, \$.19, \$.26	#10, 6x9, 9x12, 10x13,
Postage Charges	Actual	Per mailing

\*Hourly wage of the lowest paid departmental employee capable of retrieving the information necessary to comply with the request. The rate listed was calculated using the hourly wage of a Board Secretary plus 50% of fringe benefits prorated to 15 minute units.

**Waivers**

The first \$20 of the fee shall be waived for an individual who submits an “Affidavit of Indigency”, and meets the eligibility requirements.

**Deposits**

If the fee for the search and providing the public information exceeds \$50, a deposit of 50% of the estimated fee is required.

**Other**

Fees must be paid in full prior to the actual delivery of the public information or copies.

100% of fee estimate will be required when a prior request was made, within 365 days, by the same person or entity, and was not paid. If the good faith deposit is not received within 48 days from the date the notice is mailed, the request will be considered abandoned.