

**City of Frankfort, Michigan**  
**Written Public Summary of**  
**Freedom of Information Act Procedures and Guidelines**

City of Frankfort FOIA Coordinator  
412 Main St., P.O. Box 351  
Frankfort, MI 49635  
Phone (231) 352-7117 Fax (231) 352-7100

*Consistent with the Michigan Freedom of Information Act, MCL 15.231 et seq. (FOIA, it is the policy of the City of Frankfort that all persons, except those incarcerated, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees, so that they may fully participate in the democratic process.*

The following is the official written public summary of City of Frankfort'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 complete FOIA Procedures and Guidelines are available at no charge at City Hall and on the City's website.

**1. Submitting a FOIA Request**

- Requests to inspect or obtain copies of public records may be submitted on the City's FOIA Request Form, which is available at no charge at City Hall and on the City's website, or in any other written form (e.g., letter, fax, email, etc.). Note that while you may make a verbal request at City Hall, your request will need to be documented in writing by the City, at the time of the request, on the City's FOIA Request Form.
- In order to ensure the most prompt response possible, you should address written correspondence to the City's "FOIA Coordinator," and otherwise include the words "FOIA" or "FOIA Request" in a conspicuous location in the request, such as the outer envelope of a mailed letter, the subject line of an email, or the first sentence of a letter.
- A request must sufficiently describe a public record so as to enable the City to find it.
- Written requests may be delivered to City Hall in person or by mail to the following address:

City of Frankfort  
Attn: FOIA Coordinator  
412 Main St.  
P.O. Box 351  
Frankfort, MI 49635

- Requests may be faxed to: (231) 352-7100. Again, to ensure a prompt response, faxed requests should contain the terms "FOIA," "FOIA Request," or "FOIA Coordinator" on the cover page.

- Requests may be emailed to: [kkidder@cofrankfort.net](mailto:kkidder@cofrankfort.net). Again, to ensure a prompt response, email requests should contain the term “FOIA,” “FOIA Request,” or “FOIA Coordinator” in the subject line.
- A request sent to the City by email, fax, or other electronic means will be considered to have been received one business day after the day on which the request was transmitted.

## 2. Types of Responses

- Within 5 business days after receiving a FOIA request, the City’s FOIA Coordinator will issue a written response that:
  - Grants the request;
  - Informs you that the requested documents do not exist;
  - Denies the request;
  - Grants part of the request but also denies part of the request;
  - Indicates that, due to the nature of the request, the City needs an additional 10 business days to respond; or
  - Indicates that the public record requested is available at no charge on the City’s website.
- If the request is granted in full or 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. You will be provided with an itemized worksheet showing the costs and fees associated with your request.
- If the cost of processing your request is expected to exceed \$50, or if you have not paid in full for the costs of a separate FOIA request previously granted by the City, the City will require a deposit before processing the request.

## 3. Fee Deposits

- If the City estimates in good faith 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 with an itemized estimate of the fee, as well as 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 provided in response to 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, so long as all of the following conditions exist:
  - The final fee for the prior written request was not more than 105% of the estimated fee for that request;
  - 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 efforts time frame estimated by the City to provide the records;

- 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.

However, the City will not require a 100% 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
- 365 days have passed since the person made the request for which full payment was not remitted to the City.

#### **4. Calculation of Fees**

##### General Information

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 that is exempt from disclosure by law, when failure to charge a fee will result in unreasonably high costs to the City. If the City does not employ a person capable of separating and deleting exempt information from nonexempt information in a particular instance, as determined by the FOIA Coordinator on a case-by-case basis, the City may charge for contracted labor costs necessary for performance of this function.
- The non-labor cost of copying or duplicating 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 labor 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 may also include an additional charge of up to 50% of the applicable labor cost to cover or partially cover the cost of fringe benefits, although this additional charge will not exceed the actual cost of any associated fringe benefits.
- Overtime wages will not be included in labor costs unless agreed to by the requestor, and overtime costs will not be used to calculate any fringe benefit charge.
- Contracted labor costs incurred for the separation and deletion of exempt information from nonexempt information, where applicable, will be charged at the hourly rate of 6 times the state minimum hourly wage. At the time the City's FOIA Procedures and Guidelines were adopted, the resulting hourly rate for contracted labor costs was \$48.90 per hour. However, that rate is subject to change with fluctuations in the minimum wage.
- Labor costs associated with searching for, locating, examining, reviewing, and deleting or separating exempt information from nonexempt information will not be charged unless the failure to charge for such costs 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 when compared to the City's usual FOIA requests, because of the nature of the request in the particular instance. The City must specifically identify and explain 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 the use of black and white ink and double-sided printing, if cost-saving and available.
- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$0.10 per sheet of paper. Copies for non-standard sized sheets will reflect the actual cost of reproduction.
- 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.

#### Mailing Costs

- The City will use reasonably economical and justified methods to mail documents in fulfillment of FOIA requests, and will charge for the actual costs of those methods.
- The City may charge for the least expensive form of postal delivery confirmation.
- Expedited shipping or insurance will not be used, and no associated cost will be charged, unless you request these options.

## 5. Fee Waivers and Discounts

The cost of the search for and copying of a public record may be waived or reduced if, in the sole judgment of the City's 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.

In addition, the City will discount the first \$20.00 of the fee 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.

In addition, the City will discount the first \$20.00 of the fee for a request submitted by 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. This discount applies if the request:

- 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; and
- Is accompanied by documentation of its designation by the state, if requested by the public body.

## 6. Challenging Denials and Partial Denials.

You may choose to appeal the denial or partial denial of a FOIA request in one or both of the following ways, at your option.

[Appeal to City Council](#)

If you believe that all or a portion of a nonexempt 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 City FOIA Coordinator.

The appeal must be in writing, must specifically state the word “appeal,” and must identify the reason or reasons you are seeking a reversal of the denial. You may use the City’s FOIA Appeal Form, which is available on the City’s website.

The City Council is not considered to have received a written appeal until the first regularly scheduled City Council meeting following submission of the written appeal to the FOIA Coordinator. Within 10 business days of receiving the appeal the City Council will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial;
- Reversing the denial in part and upholding the denial in part; or
- In unusual circumstances, issuing a notice extending for not more than 10 business days the period during which the City Council will respond to the written appeal.

#### Appeal to Circuit Court

Whether or not you submitted an appeal of a denial to the City Council, you may also choose to file a civil action in the Benzie County Circuit Court within 180 days after the City's denial or partial denial of your request. If you fully prevail in a 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 improperly refusing to disclose or provide a public record, the court will award you punitive damages in the amount of \$1,000.

#### **7. Challenging Fees.**

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 with the City FOIA Coordinator.

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, which is available at the City Hall and on the City’s website.

The City Council is not considered to have received a written appeal until the first regularly scheduled City Council meeting following submission of the written appeal to the FOIA Coordinator. Within 10 business days after receiving the appeal, the City Council will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;

- Upholding the fee and issuing a written determination indicating the specific basis that supports the fee; or
- Issuing a notice 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 then commence a civil action in the Benzie County Circuit Court to challenge a fee charged by the City for a FOIA request. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all of, or an appropriate amount of, reasonable attorneys' fees, costs, and disbursements. If the court determines that the City acted arbitrarily and capriciously in improperly charging an excessive fee, court may also award you punitive damages in the amount of \$500.