

CITY OF FARMINGTON HILLS

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 of Farmington Hills' 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 City Hall and on the City's website: www.fhgov.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 in writing (letter, fax, email, etc.).
- Written requests may be delivered to the City Hall in person or by mail to the City Clerk's Office at 31555 W. Eleven Mile Road, Farmington Hills, MI 48336.
- Requests may be faxed to: 248-871-2411. To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.
- Requests may also be directed to the designees at the City's Police Department, Kelly Nelson, Police Records Supervisor (FOIA-PD@fhgov.com) and Fire Department, Jason Bologa, Fire Marshal (FOIA-FD@fhgov.com) authorized to accept FOIA Requests pertaining to the public records created by those specific entities, e.g. incident report.
- Requests may be emailed to: FOIA-Clerk@fhgov.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:

- 1) Grant the request,
 - 2) Issue a written notice denying the request,
 - 3) Grant the request in part and issue a written notice denying in part the request,
 - 4) Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond, or
 - 5) 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:
 - 1) The final fee for the prior written request is not more than 105% of the estimated fee;
 - 2) The public records made available contained the information sought in the prior written request and remain in the City's possession;
 - 3) 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;
 - 4) Ninety (90) days have passed since the City notified the individual in writing that the public records were available for pickup or mailing;
 - 5) The individual is unable to show proof of prior payment to the City; and
 - 6) 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:

- 1) The person making the request is able to show proof of prior payment in full to the City;
- 2) The City is subsequently paid in full for all applicable prior written requests; or

- 3) 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 FOIA permits the City to charge for the following costs associated with processing a request:

- 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 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 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.
- 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.
- The cost to mail or send a public record to a requestor.

Labor Costs

- All labor costs will be estimated and charged as allowed in FOIA and the City's FOIA Procedures and Guidelines.
- 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 a charge to cover or partially cover the cost of fringe benefits. The 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 \$82.38 (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 will use the most economical method for making copies of public records, including using double-sided printing, if there will be cost-saving and is 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 be charged at actual cost, not to 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.

Currently, the following public records are available on the City's website for free:

- 1. Minutes**
- 2. Agendas**
- 3. Budget Information**

4. **Charter/Ordinances**
5. **Election Information**
6. **Property Tax Information**
7. **Maps**
8. **Road Construction Updates**
9. **City's Annual Report**

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 a sworn statement.

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:

- 1) Is made directly on behalf of the organization or its clients.
- 2) 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.
- 3) Is accompanied by documentation of its designation by the state, if requested by the City.

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 file a written appeal of the decision to the City Council.

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.

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 the Oakland 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 Excessive 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 City Council.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

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 file a civil action in the Oakland 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.

**CITY OF FARMINGTON HILLS
FOIA PROCEDURES AND GUIDELINES
FIXED COST FEE SCHEDULE**

PAPER COPIES:

| | |
|------------------------------------|-----------------|
| 8 1/2 " x 11" - Black and White | \$0.05 per page |
| 8 1/2 " x 11" - Color Copies | \$0.10 per page |
| 8 1/2 " x 14" - Black and White | \$0.05 per page |
| 8 1/2 " x 14" - Color Copies | \$0.10 per page |
| Plan sheets exceeding 8 1/2" x 14" | \$0.25 per page |

If it is determined that the volume of a set of plans is too large for the City to copy, these will be sent out and the requestor will be charged for the actual costs to prepare the document.

COPIES WILL BE DOUBLE-SIDED IF AVAILABLE AND COSTS LESS

NON-PAPER PHYSICAL MEDIA:

| | |
|------------------------|-------------|
| Computer Disc w/sleeve | \$0.54 each |
| DVD w/sleeve | \$0.56 each |

ELECTRONIC COPIES:

There will be no charge for copies of documents that are already available electronically or can be scanned in without first printing off a copy from another source or software system.

MAILING COSTS:

Actual cost of mailing records in a reasonable and economical manner. The City may charge for the least expensive form of postal delivery confirmation.

The City will charge for costs associated with expedited shipping or insurance if specifically stipulated by the requestor.

WAIVERS AND REDUCTIONS:

\$20.00 for indigence or nonprofit organization as further described in the Farmington Hills Procedures and Guidelines document.

FOIA Fee Itemization Form

(Effective July 1, 2015)

| Component | Cost Calculations | Total |
|---|--|----------|
| 1. Labor Costs – Search, Location, and Examination of Records* | <p>Enter the hourly wage of lowest paid employee capable of performing the search, location and examination <div style="text-align: right;">\$ _____ per hour</div></p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) <div style="text-align: right;">_____ %</div></p> <p>Multiply the hourly wage times the fringe benefit multiplier <div style="text-align: right;">\$ _____ x 1. _____ = \$ _____</div></p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) <div style="text-align: right;">\$ _____ + _____ = \$ _____</div></p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment <div style="text-align: right;">\$ _____ / 4 = \$ _____</div></p> | |
| | <p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate <div style="text-align: right;">_____ x \$ _____ = \$ _____</div></p> | \$ _____ |
| 2. Employee Labor Costs – Redaction* | <p>If performed by the public body's employee:</p> <p>Enter the hourly wage of lowest paid employee capable of performing the redaction <div style="text-align: right;">\$ _____ per hour</div></p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) <div style="text-align: right;">_____ %</div></p> <p>Multiply the hourly wage times the fringe benefit multiplier</p> | |

| | | |
|---|---|----------------------|
| | $\$ \underline{\hspace{2cm}} \times 1. \underline{\hspace{1cm}} = \$ \underline{\hspace{2cm}}$ <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)</p> $\$ \underline{\hspace{2cm}} + \underline{\hspace{2cm}} = \$ \underline{\hspace{2cm}}$ <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment</p> $\$ \underline{\hspace{2cm}} / 4 = \$ \underline{\hspace{2cm}}$ | |
| | <p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> $\underline{\hspace{2cm}} \times \$ \underline{\hspace{2cm}} = \$ \underline{\hspace{2cm}}$ | \$ <u> </u> |
| 2. Contracted Labor Costs – Redaction* | <p>If performed by Contracted Labor (Only permitted if the public body does not employ a person capable of redacting the records as determined by the FOIA Coordinator):</p> <p>Name of person or firm contracted:</p> <p>_____</p> <p>Enter the hourly rate charged by the contractor (may not exceed six (6) times the State minimum wage (i.e. \$8.15x6=\$48.90)</p> <p style="text-align: right;">\$ _____ per hour</p> <p>Divide the hourly rate by four (4) to determine the charge per fifteen (15) minute increment</p> $\$ \underline{\hspace{2cm}} / 4 = \$ \underline{\hspace{2cm}}$ | |
| | <p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> $\underline{\hspace{2cm}} \times \$ \underline{\hspace{2cm}} = \$ \underline{\hspace{2cm}}$ | \$ <u> </u> |
| 3. Non-Paper Physical Media | <p>Actual and most reasonably economical cost of:</p> <p>Flash Drives \$ _____ x number used _____ = \$ _____</p> <p>Computer Discs \$ _____ x number used _____ = \$ _____</p> <p>Other Media \$ _____ x number used _____ = \$ _____</p> | \$ <u> </u> |
| 4. Paper Copies | <p>Actual total incremental cost of duplication (not including labor) up to a <u>maximum of 10 cents per page</u>:</p> <p>Letter paper (8 ½" x 11")</p> <p style="text-align: right;">number of sheets _____ x \$0. _____ = \$ _____</p> | |

| | | |
|---|---|----------|
| | <p>Legal paper (8 ½" x 14") number of sheets ___ x \$0. ___ = \$ _____</p> <p>Actual cost of other types of paper:</p> <p>Type of Paper: _____ number of sheets ___ x \$ _____ = \$ _____</p> <p>Type of Paper: _____ number of sheets ___ x \$ _____ = \$ _____</p> <p>(NOTE: Must print double-sided if available and costs less.)</p> | \$ _____ |
| <p>5. Labor Cost – Duplication Copying, and transferring records to non-paper physical media</p> | <p>Enter the hourly wage of lowest paid employee capable of performing the duplication, copying, or transferring digital records to non-paper physical media \$ _____ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) _____ %</p> <p>Multiply the hourly wage times the fringe benefit multiplier \$ _____ x 1. _____ = \$ _____</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) \$ _____ + _____ = \$ _____</p> <p>Divide the resulting hourly wage by _____ to determine the charge per _____ () minute increment \$ _____ / 4 = \$ _____</p> <p>(NOTE: May use any time increment for this category)</p> | |
| | <p>Number of ___ minute increments (partial time increments must be rounded down) multiplied by the permitted rate x \$ _____ = \$ _____</p> | \$ _____ |
| <p>6. Mailing</p> | <p>Actual cost of mailing records in a reasonable and economical manner:</p> <p>Cost of mailing: \$ _____</p> <p>Cost of least expensive form of postal delivery confirmation: \$ _____</p> <p>Cost of expedited shipping or insurance only if specifically stipulated by the requestor:</p> | |

| | | |
|-------------------------------|--|-----------|
| | \$ _____ | \$ _____ |
| | Subtotal | \$ _____ |
| Waivers and Reductions | <p>Subtract any Fee Waiver or Reduction: \$20.00 for indigency or nonprofit organization as further described in the Public Body's procedures and guidelines.</p> <p>Any amount determined by the Public Body due to the search and furnishing of the Public Record determined to be in the public interest. \$ _____</p> <p>The reduction amount due to the late response of the Public Body. 5% of fee x _____ days late = _____ % reduction (maximum reduction is 50%)</p> | -\$ _____ |
| Deposit | Subtract any good-faith deposit received: \$ _____ | -\$ _____ |
| | Total Due | \$ _____ |

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

The Court of Appeals has interpreted this provision to require that the determination be made relative to the usual or typical costs incurred by the public body in responding to FOIA requests. The key factor in determining whether the costs are "unreasonably high" is the extent to which the particular request differs from the usual request. *Bloch v Davison Cmty Schools*, (Mich.App. Apr. 26, 2011), 2011 WL 1564645.

**CITY OF FARMINGTON HILLS
FOIA PROCEDURES AND GUIDELINES
EMPLOYEE SALARY INFORMATION**

CITY HALL

| <u>TITLE</u> | <u>HOURLY WAGE</u> |
|---|--------------------|
| DEPARTMENT DIRECTOR | \$57.20 - \$70.30 |
| ASSISTANT (DEPUTY) DIRECTOR/DIVISION SUPERVISOR | \$39.52 - \$58.58 |
| SECRETARY TO DIRECTOR | \$31.28 - \$34.55 |
| SECRETARY/DEPARTMENT TECHNICIAN | \$23.83 - \$30.67 |
| DEPARTMENT AIDE | \$22.41 - \$24.79 |
| CLERK TYPIST | \$18.79 - \$24.03 |
| ASSESSOR II | \$34.13 |
| CIVIL ENGINEER | \$47.31 - \$65.66 |
| ZONING/BUILDING INSPECTORS | \$31.90 - \$38.94 |
| ACCOUNTANT/ACCOUNTS PROCESS SUPERVISOR | \$33.22 - \$46.52 |
| ACCOUNT CLERK | \$23.20 - \$25.60 |
| IT ANALYST | \$33.62 - \$48.36 |

FIRE

| | |
|---------------------------------|---------|
| DEPUTY FIRE CHIEF | \$64.35 |
| FIRE MARSHAL (FOIA COORDINATOR) | \$56.62 |
| HAZMAT COORDINATOR | \$40.04 |
| ADMINISTRATIVE SECRETARY | \$30.67 |
| DEPARTMENT TECHNICIAN | \$27.28 |

POLICE

| | |
|---|-------------------|
| POLICE CAPTAIN | \$63.33 |
| POLICE LIEUTENANT | \$57.09 |
| POLICE SERGEANT | \$52.37 |
| POLICE DETECTIVE/OFFICER | \$30.13 - \$43.37 |
| RECORDS DIVISION SUPERVISOR | \$40.62 |
| RECORDS DIVISION COORDINATOR/FOIA COORDINATOR | \$28.68 |
| DEPARTMENT TECHNICIAN | \$24.69 - \$26.41 |
| CLERK TYPIST | \$20.76 - \$24.03 |

FRINGE BENEFITS ARE FIGURED
USING 50% MULTIPLIER