

VILLAGE OF DIMONDALE

Freedom of Information Act (FOIA) Policy

This policy was established pursuant to a resolution adopted by the Dimondale Village Council on June 8, 2015. The policy identifies the procedures that Village officers and employees are to follow when processing a request in accordance with Act No. 442 of the Public Acts of 1976, as amended (the "Act").

Section 1: Definitions

Act: The Michigan Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended.

FOIA Coordinator: The individual, designated by the Village Council, who is responsible for accepting and processing requests for public records as outlined in this policy and the Act, and who is responsible for approving denials of requests, or that individual's designee as provided.

Person: An individual, corporation, organization or other legal entity, as modified by the Act.

Public Body: The Village of Dimondale and its duly constituted departments, commissions, boards or committees.

Public Record: A writing which is prepared, owned, used, in the possession of or retained by a public body in the performance of an official function from the time it is created and as otherwise defined by the Act.

Unusual Circumstances: Entails the need to search for, collect, or appropriately examine or review a voluminous amount of public records and/or the need to collect public records from numerous locations apart from the processing office.

Where not otherwise defined, the words and phrases contained in this policy shall have the meaning given to them, if any, by the Act.

Section 2: Right to Records

A person has the right to submit a written request for public record(s) from the Village and its departments. The request must sufficiently describe the public record to enable the FOIA Coordinator to identify the requested information.

A person has the right to inspect a public record, unless exempted by law or court order. Original public records are not to be released from the Village office where the public records are secured. A person may request that copies of a public record be provided subject to the payment of fees outlined in Section 4.

A person has the right to future issuances of regularly published public records as outlined in Section 3 of the Act.

Upon request, a person will be provided with a reasonable opportunity to examine the public records provided by the public body. Persons with special needs should contact the FOIA Coordinator to insure that arrangements for special needs or reasonable facilities are prepared.

Section 3: Rights and Obligations of the Public Body

The FOIA Coordinator shall provide reasonable facilities and opportunities for person(s) to inspect public records. To implement this Section, the FOIA Coordinator may prepare and submit to the Village Council for its approval rules to regulate the time and manner in which records are reviewed, to protect the records and to prevent excessive interference with the public body's normal operations.

The FOIA Coordinator shall provide a certified copy of a public record if a person requests the same in writing.

Neither the public body nor the FOIA Coordinator is obligated to create a record, list, compilation or summary of information which does not already exist. This exemption includes analyzing, compiling or summarizing existing information into a new format. Neither the public body nor the FOIA Coordinator is obligated to provide answers to oral or written questions.

The FOIA Coordinator shall provide copies of any public records as provided for in the Act and shall retain a copy of all written requests on file for a period of not less than one (1) year. The FOIA Coordinator will follow the provisions of Section 4 of this policy.

Section 4: Provisions for Copying Public Records

The Village of Dimondale shall adopt, by resolution, a schedule of fees for providing copies of public records. All FOIA requests submitted pursuant to the Act shall be subject to the fees and charges adopted by the Village Council. Postage and handling shall also be charged as applicable and shall include the exact postage, as well as the cost for containers used for mailing copies of the public records requested. Records may be provided on non-paper physical media or electronically if requested, based on the technical capability of the Village Office. The actual and most reasonably economical cost shall be charged for digital or similar media.

The FOIA Coordinator may charge a fee for the labor involved in searching for, examining and reviewing a public record as permitted by the Act. In determining whether to charge a fee for labor, the FOIA Coordinator shall consider the anticipated cost to the Village, the need for a devoted staff member to adequately respond to the particular request and similar factors. When the time to process a request would result in unreasonably high costs to the Village, the Village will identify the nature of these costs and a labor fee shall be charged to the person requesting the public record. Labor charges for searching, locating, examining and redacting records shall be based on the hourly wage of the lowest paid Village employee capable of performing the task and shall include fifty percent of the applicable labor charge for fringe benefits. The estimated labor charges that are involved will be included on the FOIA Worksheet. Where total fees and charges, based upon a good-faith calculation, exceed \$50.00, the public body is further authorized to require that fifty percent of the estimated fees and charges be paid in advance of the performance of the work as authorized by the Act and included on the detailed itemization. The detailed itemization will also include a non-binding, best efforts estimate regarding the time frame to provide the public records to the requestor. A deposit of 100% may be required from an individual who has not paid a previous FOIA fee in

full to the Village of Dimondale before another search for that individual is undertaken. The balance, or any other charges owing, must be paid prior to the release of the public record copies. The FOIA Coordinator shall not charge additional fees for certification of any copies. Fees may be waived for indigence and for specific nonprofit organizations.

The Village of Dimondale has limited in-house capabilities for copying photographs, audio or video tapes, microfilms, maps or plans. If a person requests that copies be made of these or large documents which must be copied off-site, the FOIA Coordinator will determine and assess those costs. If an employee of the public body is required to deliver and/or pick up the public records and/or copies of public records, the labor hours spent and applicable mileage will also be added to the charges for the person(s) requesting the public records.

Copy fees and mailing charges for future issuances of regularly published public records will be arranged through the FOIA Coordinator. A person can request that a public record, which is regularly published, be sent to them or they may be called for pick up of the public record for a period of time, not to exceed six months, unless extended. The Village will charge for the costs of copying and postage as outlined in Section 4. There will be no labor charges since this must be a public record that is routinely developed. An account sheet of the number of copies and costs for mailing will be maintained by the FOIA Coordinator.

Section 5: Provisions for Inspection of Public Records

The FOIA Coordinator shall furnish the requesting person with a reasonable opportunity for inspection and examination of Village public records and furnish reasonable facilities for making memoranda or abstracts from public records available during usual business hours.

Any person examining public records shall bring to the examination only an erasable pencil with which to make notes or lists, etc. No pens or indelible writing instruments are allowed. No notes or writing of any kind shall be made on the documents themselves. In the event the inspection is of original Village records, the Village shall provide a monitor to ensure protection of the public records. In order to defray the cost to the Village of having the records review monitored by Village personnel, a fee shall be paid to the Village for personnel time as provided in Section 4 of this policy.

Section 6: Procedures of the Public Body in Processing a FOIA Request

Any Village official or employee receiving the FOIA request form, after recording the date received on the request, shall promptly forward the request to the FOIA Coordinator. After a person has made a written request for a public record in accordance with the Act, the FOIA Coordinator shall respond within five (5) business days in one of four ways:

1. Grant the request.
 - A. If the request indicates that the person desires to inspect the public records, the FOIA Coordinator will contact the person to arrange for inspection at a reasonable time.
 - B. If the request indicates that the person wishes to have copies of a public record prepared and/or mailed, the FOIA Coordinator may first mail a FOIA Worksheet to the person and request a fifty percent payment of the anticipated charges and fees.
 - C. Upon receiving the person's executed FOIA Worksheet, when required, along with any payment due, the FOIA Coordinator will respond by providing those public records.

2. Issue a written notice denying the request. The notice of denial shall include:
 - A. An explanation as to why the requested public record is exempt from disclosure in accordance with the Act, or
 - B. An explanation that the requested public record does not exist under the name given by the person or another name reasonably known to the public body, or
 - C. An explanation or general description of information which had to be separated or deleted from public record pursuant to Section 6 of this Policy.
 - D. An explanation of the person's right to appeal the denial to the Village Council and/or seek judicial review in accordance with the Act.
3. Grant the request in part, and issue a written notice denying the request in part. In the latter instance, the public records exempted from disclosure should be treated as in (2) above.
4. Issue a written notice extending the time in which to respond to the request by ten (10) business days.

Where a written request is received which does not sufficiently describe the public records requested so as to enable the FOIA Coordinator to locate the same, the FOIA Coordinator may send notice to the person requesting a clarification of the request. Such notice, if sent, shall not be interpreted as a denial of the request for purposes of the Act or this Policy.

Section 7: Procedures for Separation of Records

If a request is made for an existing public record that includes information which is exempt from disclosure under the Act and information which is not exempt, the FOIA Coordinator must separate the material and make the non-exempt material available for examination and/or copying. Additionally, the FOIA Coordinator is directed to generally describe the material which had to be separated, unless doing so would reveal the contents of the exempt information and thus defeat the purpose of the exemption. The labor cost associated with such procedures shall be treated in accordance with Section 4.

Section 8: Designation of FOIA Coordinator

The Village Manager is hereby designated to be the Village's FOIA Coordinator. In addition, the Manager's Administrative Assistant shall be authorized to act as a FOIA Coordinator designee. The FOIA Coordinator and designee shall be responsible to accept and process requests for public records and approve denials in accordance with this policy and the Act.

Section 9: Appeals

In accordance with the Act, where a person's request for a public record is denied, in whole or in part, the person shall be entitled to file a written appeal to the decision in accordance with the following process:

1. The person shall be advised by the FOIA Coordinator of the right to file a written appeal to the Village Council.
2. Where a written appeal is received by the Village in accordance with the Act, the Village Council shall respond within 10 business days by one of the following methods:

- A. Place the appeal on the agenda for the next regularly scheduled meeting where unusual circumstances are found to exist, or
- B. Consider and decide the appeal at the meeting at which it was received, or
- C. Direct that a special meeting to consider the appeal be scheduled.

3. In its consideration of any appeal, the Village Council shall review the materials submitted by the appellant, any written comments received from the FOIA Coordinator, and such other information as the Village Council deems necessary.

4. The Village Council may deliberate and take one of the following actions in response to the filing of an appeal:

- A. Reverse the disclosure denial.
- B. Issue a written notice to the requesting person affirming the disclosure denial.
- C. Reverse the disclosure denial in part and issue a written notice to the requesting person affirming the denial in part.

Excessive fees exceeding the amount permitted under the Act may be appealed to the Village President in accordance with the following process:

1. Where a written appeal containing the word "appeal" and identifying how the required fee exceeds the amount permitted is received by the Village in accordance with the Act, the Village President shall respond within 10 business days by one of the following methods:
 - A. Waive the fee.
 - B. Reduce the fee.
 - C. Uphold the fee.
 - D. Issue a notice extending the response time for up to 10 business days and detailing reasons why the extension is necessary.

In reducing or upholding the fee, the Village President will provide a written determination indicating the specific basis that supports the fee amount, and shall certify that the statements therein are accurate and that the fee amount complies with the procedures and guidelines of the Act.

2. Civil action in response to a determination by the Village President must be filed within 45 days of receipt of the determination. The burden is on the Village to establish that the fee complies with the procedures and guidelines of the law.