

Adopted April 25, 2017

**Forsyth Township Public Library Freedom of Information Act Procedures and Guidelines 1976 PA 442, MCL 15.231 et seq (FOIA) Effective Date: May 1, 2017.**

The Forsyth Township Public Library ("Library") adopts the public policy set forth in the Michigan Freedom of Information Act, 1976 PA 442 ("FOIA"), that all persons, except those persons incarcerated in state, county or federal 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, consistent with the FOIA. Access to information is important so that people may fully participate in the democratic process. These Procedures and Guidelines are enacted in compliance with the requirements set forth in Section 4(4) of the FOIA.

**A. FOIA Coordinator**

The Library Director shall be the FOIA Coordinator and the FOIA Coordinator will respond to requests in accordance with the FOIA. Any employee of the Library who receives a written request for a public record must immediately forward that request to the FOIA Coordinator. The FOIA Coordinator is responsible for accepting, processing and approving a denial of a request and signing the written notice of denial. The FOIA Coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the Library's public records, and in approving a denial.

**B. Submission of FOIA Request**

FOIA requests to the Forsyth Township Public Library can be sent by facsimile, email or mail to: Email (include subject line of "FOIA Request"): [Imoore@forsythtwplibrary.org](mailto:Imoore@forsythtwplibrary.org).

Mail: Forsyth Township Public Library, Attn: FOIA Coordinator, P.O. Box 1328, Gwinn, MI, 49841.

Fax: 906-346-9728.

Requests shall include a name, phone number, mailing address or email address. Upon receipt of the request, the FOIA Coordinator shall record on the request document and in a journal the date and time of receipt.

**C. Electronic Transmissions**

If a Library employee receives a written request for a public record that is delivered to a spam or junk-mail folder, the employee must record the date and time the written request is delivered to the spam or junk mail folder and date and time the employee first becomes aware of the written request. The employee must forward those dates and times to the FOIA Coordinator with the written request.

**D. Request Response Time**

The Library must respond to FOIA requests within 5 business days after receipt of the request. The Library may extend the time for responding by an additional 10 business days by notifying the requesting person in writing of the reason for the extension and the new due date. MCL 15.235(2) (d) and (6). Due to the short statutory time period within which the Library must issue a written notice in response to the FOIA request, it is imperative that there be no delay in complying with the Library procedures and guidelines.

### **E. Response to a FOIA Request**

Only the Library's FOIA Coordinator will respond to FOIA requests. The Library will provide copies of the Forsyth Township Public Library FOIA Procedures and Guidelines with each written response, or provide a link to an online version of these documents. If a request is denied, in full or in part, the Library will provide the requestor with an explanation of the basis of the denial under the FOIA, and give notice to the requestor of his or her remedial rights. MCL 15.235(4)

### **F. Assessment of Fees for a FOIA Request**

The FOIA permits the Library to charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material, but only if the failure to charge a fee would result in unreasonably high costs to the Library because of the nature of the request in the particular instance, and the Library specifically identifies the nature of these unreasonably high costs. Considerations include the volume and complexity of the FOIA request as well as the Library's particular fiscal condition at the time of the request and any other conditions authorized by law. MCL 15.234(1) and (3). The following fee guidelines for calculating labor and material costs incurred in processing FOIA requests are established pursuant to MCL 15.234(3):

1. Fees will be uniform and not dependent upon the identity of the requesting person.
2. Fees will be itemized using the attached detailed itemization form and will include:

A. Labor costs for the search, location, and examination of public records will be calculated using the hourly wage of the Library's lowest paid employee capable of conducting the search, location, and examination, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Library's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.

B. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material will be calculated using the hourly wage of the Library's lowest paid employee capable of conducting the review and separation and deletion of exempt from nonexempt material, whether they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Library's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.

C. Non-paper physical media costs will be calculated using the actual and most reasonably economical cost of computer discs, computer tapes, and other digital and similar media provided by the Library. Non-paper physical media devices will be provided by the Library to avoid introduction of computer viruses into the Library computers.

D. Duplication and publication costs will be calculated using the actual total incremental cost of necessary duplication or publication of a public record, not including labor. The actual and incremental cost, calculated per sheet, shall be charged and will not exceed 10 cents per sheet of paper for letter or legal size paper. The Library shall use the most economical means available for making copies, including the use of double-sided printing, if cost saving and available. The Library will not charge a fee for duplication costs of less than \$1.00.

E. Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on non-paper physical media or through electronic means, will be calculated using the hourly wage of the Library's lowest paid employee capable of duplicating or publishing the public records, whether they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Library's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.

F. Actual costs of mailing shall be determined in a reasonably economical and justifiable manner. The Library shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor, but may otherwise charge for the least expensive form of postal delivery confirmation.

3. Overtime wages shall not be included unless agreed to by the requestor.

4. If a requestor submits an Affidavit of Indigency, the first \$20.00 of a fee will be waived. A requesting person must include a statement that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration. An individual is ineligible for this fee reduction if he or she has previously received discounted copies of public records from the Library two times during that calendar year or if 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.

5. A person requesting to inspect library 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.

6. Requests for library information that is furnished to the general public on a regular basis shall not be treated as a FOIA request. Examples of this type of information are documents that are available on the library website, pamphlets, and other printed materials produced for public information and disclosure. In addition, library guidelines, manuals and forms, adopted or used by the library in the discharge of its functions shall also be made available without a FOIA request, providing they are not eligible for exemption.

7. The FOIA Coordinator may reduce or waive the imposition of fees if the FOIA Coordinator determines that a waiver or reduction of the fee is in the public interest because searching or furnishing copies of the public record can be considered as primarily benefitting the general public.

8. Labor costs for monitoring an inspection of original records will be calculated using the hourly wage of the Library's lowest paid employee capable of monitoring the inspection. Labor costs for monitoring an inspection will not be charged for the first hour. The hourly wage will be based on the Library's payroll records for the applicable fiscal year. Note: Section 3(3) of the FOIA, MCL 15.233(3), provides, in pertinent part, that "[a] public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction."

9. If a statute authorizes the sale or production of public records to the public for a specified fee or if a fee for production of public records is otherwise set by statute, the Library will charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.

10. The Library will not charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material that will take less than one hour. If the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material will take more than one hour, a fee will be charged in accordance with this procedure pursuant to section 4 of the FOIA, MCL 15.234. The hourly wage will be based on the Library's payroll records for the applicable fiscal year.

11. If the FOIA Coordinator knows or has reason to know that all or a part of the requested information is available on the Library's website, the Library shall notify the requestor in its written response and shall include the website address in that response. The FOIA Coordinator shall separate the requested public records available on the website from those that are not available, and shall inform the requestor of the additional charge to receive copies of what is available on the website.

### **G. Deposit Requirements**

If the Library estimates a fee to process a FOIA request greater than \$50.00, the Library will require a good-faith deposit from the requestor before providing the public records to the requestor. The deposit shall not exceed half of the total estimated fee. Any written notice containing a notice of good faith deposit shall also contain a best efforts estimate by the Library regarding the time frame after a deposit is received that it will take the Library to provide the public records to the requestor. The time frame estimate is not binding upon the Library, but the Library shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance. If the requestor has made a previous request under FOIA for which the Library has not been paid in full the total amount for copies of records requested, the Library may require, under conditions set forth in MCL 15.234(11), a deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual.

### **H. Appeals of Fees and Disclosure Determinations**

If the Library charges what the requestor believes to be an excessive fee or denies all or part of a request, the requestor may submit to the Forsyth Township Public Library Board, as the governing body of the Library, a written appeal that specifically states the word "appeal" and identifies the basis for which the fee should be reduced or the nondisclosure determination should be reversed. The Library Board shall designate the FOIA Coordinator to receive the written appeal and to immediately notify the head of the Library Board of its receipt.

### **I. Review of Fees and Disclosure Determinations**

Under section 10(3) of the FOIA, MCL 15.240(3), the Library Board is not considered to have received a written appeal until the first regularly scheduled meeting of the Library Board following submission of the written appeal. Should the Library Board decide to consult with the Library's legal counsel on the appeal, it must comply with the time periods set forth in the FOIA for written responses as well as the provisions of the Michigan Open Meetings Act, 1976 PA 267, MCL 15.261 *et seq.* The Library will respond within 10 business days to disclosure appeals by reversing the disclosure denial, upholding the denial, revising in part and upholding in part the denial or issuing a 10 day business extension. The Library will respond within 10 business

days to fee determination appeals by waiving the fee, reducing the fee and explaining the basis for the remaining fee, upholding the fee or issuing a 10 business day extension.

#### **J. Further Appeals Concerning Fee Reductions or Disclosure Determinations**

A requestor may, within 180 days after the Library's final determination to deny a request, commence a civil action in the circuit court to compel disclosure. Under section 10(4) of the FOIA, MCL 15.240(4), the "circuit court of the county in which the public record or an office of the public body is located has venue over the action." Actions involving the fee reductions must be filed within 45 days after receiving the notice of a required fee or the determination of an appeal to the Library Board.

#### **K. Exemption**

Per MCL 15.243, FOIA permits a public body to withhold from public disclosure some specific information. Following 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. Records or information specifically described and exempted by other statutes;
3. Information or records subject to attorney-client privilege;
4. Sealed bids prior to the public opening;
5. Social Security Numbers.