

**CITY OF IONIA**  
**Written Summary of Freedom of Information Act (FOIA) Policy**

Pursuant to Public Act 563 of 2014 amending the Michigan Freedom of Information Act (FOIA), the following is a Written Summary of the City's FOIA Policy.

**1. How do I submit a FOIA request to the City?**

- Requests to inspect/obtain copies of public records prepared, owned, used, possessed or retained by the City must be submitted in writing.
- A request must sufficiently describe a public record so as to enable the City to find it.
- No specific form to submit a written request is required. A request should be as descriptive as possible.
- Written requests can be made in person by delivery to City Hall or the Public Safety Facility or by mail.
- Requests can also be by facsimile by calling (616) 527-0810 for non-Public Safety records or (616) 527-5717 for Public Safety records.
- A request may also be submitted by e-mail. To ensure a prompt response, e-mail requests should contain the term FOIA Request in the subject line and e-mailed to the City Manager for non-Public Safety records or the Public Safety Department Administrative Assistant for Public safety records.
- Required Information:
  - o From individuals – The individual making the request must include his or her complete name, address, and contact information. The address shall be in a format that complies with United States Postal Service addressing standards. The contact information of the individual must include a valid telephone number or an electronic mail address.
  - o From agents representing a legal entity – If the requestor is the agent of a corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity, then:
    - The request must include the complete name and address of the requesting entity in a format that complies with United States Postal Service addressing standards.
    - The request must include the agent's complete name, address and contact information and the agent's contact information must include a valid telephone number or an electronic mail address.

NOTE: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for a public record.

**2. What kind of response can I expect to receive regarding my request?**

- Within 5 business days of receipt of a FOIA request the City will issue a response. If a request is received by facsimile or e-mail 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:

- Grant the request.
  - Issue a written notice denying the request.
  - Grant the request in part and issue a written notice denying in part the request.
  - Issue a notice indicating that due to the nature of the request the City needs an additional 10 business days to respond.
  - Issue a written notice indicating 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 \$50.00, 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 fee deposit requirements?**

- If the City has made a good faith calculation that the total fee for processing the request exceeds \$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 estimate of how long it will take to process the request following receipt by the City of your deposit. The required deposit must be received (or appealed) within 48 days of the sending of the good faith calculation, otherwise, the FOIA request shall be considered to be abandoned.
- 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:
  - The final fee for the prior written request not more than 100% of the estimated fee;
  - 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 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 pick-up 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.
- The City will not require the 100% estimated fee 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. How does the City calculate FOIA processing fees?**

- A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the City because of the nature of the request in the particular instance, and the City specifically identifies the nature of the unreasonably high costs.
- The Michigan FOIA statute permits the City to assess and collect a fee for six designated processing components. The City may charge for the following costs associated with processing a request:
  - Labor costs associated with searching for, location and examining a requested public record.
  - Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
  - The cost of computer discs, computer tapes or other digital or similar media when the requestor asks for records in non-paper physical media.
  - The cost of duplication or publication, not including labor, of paper copies of public records.
  - Labor costs associated with duplication or publication, 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.

**5. How do I qualify for a reduction of the processing fees?**

- The City may waive or reduce the fee associated with a request when the City determines that to do so is in the public interest because release of the information is considered as primarily benefitting the public.
- The City will waive the first \$20.00 of the processing 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 being indigent.
- You are not eligible to receive the \$20.00 waiver 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.
- The City will waive the fee for an non-profit organization which meets all of the following conditions:
  - The organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
  - The request is made directly on behalf of the organization or its clients;
  - The request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code.
  - The request is accompanied by documentation of the organization's designation by the State.

**6. 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 an appeal of the denial with the Mayor. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons you are seeking a reversal of a denial.

Subject to certain conditions, whether or not you submitted an appeal of a denial to the Mayor, you may file a civil action in Ionia County Circuit Court.

- *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 submit a written appeal for a fee reduction to the Mayor. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Subject to certain conditions, whether or not you submitted an appeal of a denial to the Mayor, you may file a civil action in Ionia County Circuit Court.

This is a summary of the City's FOIA Policy. A copy of the complete FOIA Policy is available from the City Manager at no charge or on the City's website at [www.ci.ionia.mi.us](http://www.ci.ionia.mi.us).

September 3, 2019



# CITY OF IONIA

## Freedom of Information Act (FOIA) Request

Date Requested: \_\_\_\_\_ Name: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_( ) \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Please describe in detail the document(s) you are requesting. If you are not sufficiently specific, we may not be able to identify the document(s) you are requesting which may delay our response to your request:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Assuming the document(s) that you are requesting exist, you may pick them up at:

City Hall, 114 North Kidd Street, Ionia, Michigan 48846

OR

Public Safety, 231 East Adams Street, Ionia, Michigan 48846

depending on the type of document(s) you are requesting or have them mailed to you after review and approval is complete. This can take up to five (5) working days to complete, or such later date as may be extended by law. You desire to.....

\_\_\_\_\_ Pick-up the documents      \_\_\_\_\_ Have the documents mailed to you

You will be charged the allowable fees and costs under FOIA or you need to provide documentation showing that you, the requestor, are receiving public assistance or other facts showing inability to pay due to indigence. You agree to pay such fees and costs prior to the release of the documents.

If I did not pay the fees and costs prior to the release of the documents, I, the requestor, agree to pay all allowable fees and any collection fees for my failure to pay the allowable fees and costs under FOIA within 30 days after the documents are ready or sent to me.

\_\_\_\_\_  
Signature

City Use Only:

# of Pages \_\_\_\_\_

Pick-Up Cost \$ \_\_\_\_\_

Mail Cost \$ \_\_\_\_\_

**FREEDOM OF INFORMATION ACT (EXCERPT)**  
**Act 442 of 1976**

**15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.**

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

**History:** 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015.



# CITY OF IONIA

## FOIA Appeal Form—To Appeal a Denial of Records

Date Received: \_\_\_\_\_ Check if received via: Email Fax Other Electronic Method

Date of This Notice: \_\_\_\_\_ Name: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: (\_\_\_\_) \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**Request for:** Copy Certified copy Record inspection Subscription to record issued on regular basis

**Delivery Method:** Pick up Make own copies onsite Mail to address above Email to address above  
Deliver on digital media provided by the City: \_\_\_\_\_

**Record(s) You Requested:** *(Listed here or see attached copy of original request)* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Reason(s) for Appeal:

The appeal must identify the reason(s) for the denial. You may use this form or attach additional sheets:

\_\_\_\_\_  
\_\_\_\_\_

**Requestor's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

### City Response:

The City must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

**City Extension:** We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until \_\_\_\_\_ (*month, day, year*). Only one extension may be taken per FOIA appeal.

Unusual circumstances warranting extension: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you have any questions regarding this extension, contact: \_\_\_\_\_

### City Determination:

Denial Reversed Denial Upheld Denial Reversed in Part and Upheld in Part

The following previously denied records will be released: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Notice of Requestor's Right to Seek Judicial Review** You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the City Manager 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, after judicial review, the court determines that the City has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. *(See back of this form for additional information on your rights.)* **Signature of FOIA Coordinator:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**FREEDOM OF INFORMATION ACT (EXCERPT)**  
**Act 442 of 1976**

**15.240a.added Fee in excess of amount permitted under procedures and guidelines or MCL 5.234.**  
Sec. 10a.

(1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following: (a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit. **History:** Add. 2014, Act 563, Eff. July 1, 2015



# CITY OF IONIA

## FOIA Appeal Form—To Appeal an Excess Fee

Date Received: \_\_\_\_\_ Check if received via: Email Fax Other Electronic Method  
 Date of This Notice: \_\_\_\_\_ Name: \_\_\_\_\_  
 Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone Number: (\_\_\_\_) \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**Request for:** Copy Certified copy Record inspection Subscription to record issued on regular basis

**Delivery Method:** Pick up Will make own copies onsite Mail to address above Email to address above Deliver on digital media provided by the City: \_\_\_\_\_

**Record(s) You Requested:** *(Listed here or see attached copy of original request)* \_\_\_\_\_

### Reason(s) for Appeal:

The appeal must specifically identify how the required fee(s) exceed the amount permitted. You may use this form or attach additional sheets: \_\_\_\_\_

**Requestor's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

### City Response:

The City must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

**City Extension:** We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until \_\_\_\_\_ (*month, day, year*). Only one extension may be taken per FOIA appeal. Unusual circumstances warranting extension: \_\_\_\_\_

If you have any questions regarding this extension, contact: \_\_\_\_\_

**City Determination:** Fee Waived Fee Reduced Fee Upheld

Written basis for City determination: \_\_\_\_\_

### Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10a of the Michigan Freedom of Information Act, MCL 15.240a, to appeal a FOIA fee that you believe exceeds the amount permitted under the City's written Procedures and Guidelines to the City Manager or to commence an action in the Circuit Court for a fee reduction within 45 days after receiving the notice of the required fee or a determination of an appeal to the City Manager. If a civil action is commenced in court, the City is not obligated to compete processing the request until the court resolves the fee dispute. If the court determines that the City required a fee that exceeded the permitted amount, the court shall reduce the fee to a permissible amount. (*See back of this form for additional information on your rights.*)

**Signature of FOIA Coordinator:** \_\_\_\_\_ **Date:** \_\_\_\_\_