

VILLAGE OF FIFE LAKE

**FREEDOM OF INFORMATION ACT
RECORDS REQUEST PACKET**

Instructions:

Please review enclosed FOIA Procedures and Guidelines. A Summary of these FOIA Procedures and Guidelines is provided as Attachment A, and a FOIA Request Form is provided as Attachment B for your convenience.

A Cost Worksheet is provided as Attachment C; the Cost Worksheet will be completed by the FOIA Coordinator upon completing your request.

Please return your completed FOIA Request Form(s) and Cost Worksheet(s) to the office of the Village of Fife Lake.

SUMMARY OF FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

The following is a summary of the Village of Fife Lake's Freedom of Information Act ("FOIA") Procedures and Guidelines. The purpose of this document is to provide a summary of the process to follow in order to submit a written FOIA request, to explain how to understand written responses from the Village, as well as the associated deposit requirements, fee calculations, and avenues for challenge and appeal you may have. Please note that this is a summary of the Procedures and Guidelines which implements the FOIA (MCL 15.231 *et seq.*).

1. Submission of Written FOIA Requests:

If you would like to view or to have copies of public documents then you must submit a written request to the Village of Fife Lake. You can submit your own request or use the Village's FOIA Request Form. Deliver each FOIA request to the Village Clerk by hand delivery, mail, email or fax. Each request must contain all of the following:

- a. Your name and address;
- b. A statement that this is a FOIA request in the heading or first sentence;
- c. A clear and concise description of the public records you are requesting;
- d. Whether you would like copies (paper, disc, email, etc.) or would like to view them at the Village Office; and
- e. Either a statement that you will pay the allowable costs for your request, or documentation showing that you are receiving public assistance or demonstrating an inability to pay due to indigence.

If you have special needs that require the Village to make arrangements to assist you in the preparation of your request, please contact the FOIA Coordinator at the Village.

2. Village of Fife Lake's Written Response

You will receive a response from the Village of Fife Lake within 5 days of the receipt of your FOIA request. The response will take the form of one of the following:

- a. A grant of your request with either (i) an invoice for a good faith deposit, or (ii) the requested documents and an invoice. If a good faith deposit is required it must be paid prior to receipt of the documents. If you submitted a request to view the documents, the response will provide you with a time and place for viewing.

- b. A certificate that the documents you requested do not exist.
- c. A complete or partial denial. Any denial will include the reasons for denial and describe your rights to appeal the denial.
- d. A notice of extension of the response period for 10 days. If you receive a notice of extension, you can expect a second response in the form of 2a., 2b., and/or 2c. above within the time-line stated in the notice of extension.

3. **FOIA Costs**

The Village of Fife Lake will charge for copies and actual mailing costs for FOIA responses. It will also charge for document searches, examination, review, and deletion or separation of exempt documents, when failure to do so would result in unreasonably high costs to the Village. Your invoice will be attached to the FOIA response as set out above. Costs will be set out on the attached invoice form. In cases where the charges are estimated to exceed \$50.00, you will be required to make a good-faith deposit of 50% of the estimated charges.

4. **Appeals**

If your FOIA request is denied, either in whole or in part, you will have the right to appeal. You can appeal in one of two ways.

- a. You can appeal to the Village Council, asking for the Council to reverse the denial; or
- b. You can appeal to the Grand Traverse County Circuit Court asking a judge to reverse the denial.

5. **FOIA Questions**

If you have further questions, the Village of Fife Lake Freedom of Information Act Procedures and Guidelines sets out the rules in more detail. You may also ask the Village Clerk.

**VILLAGE OF FIFE LAKE
FREEDOM OF INFORMATION ACT
PROCEDURES AND GUIDELINES**

Pursuant to Michigan's Freedom of Information Act (Public Act 442 of 1976), as amended ("FOIA" or the "Act"), including Section 4(4) of the FOIA, as well as Resolution No. _____ as adopted by the Village of Fife Lake (the "Village") on July 6, 2015, these FOIA Policies set forth the procedures and guidelines for processing a FOIA request submitted to the Village in accordance with the Act.

- 1. Purpose.** It is the public policy of the state of Michigan and the Village of Fife Lake that all persons are entitled to full and complete information regarding the affairs of the Village of Fife Lake and the official acts of those who represent the Village as public officials and public employees, consistent with the Act and unless otherwise exempted by law or court order.
- 2. FOIA Coordinator.** The Village of Fife Lake's FOIA Coordinator shall be _____ [the Village Clerk] _____. The FOIA Coordinator shall be responsible for accepting and processing requests for public records of the Village and shall be responsible for approving a denial under the FOIA. The FOIA Coordinator may designate another individual to act on his or her behalf.
- 3. Definitions.** Where not otherwise defined, the words and phrases contained in this policy shall have the meaning given to them by the Act.

Act: The Michigan Freedom of Information Act, being Public Act number 442 of 1976, as amended, and codified in the Michigan Compiled Laws beginning at MCL 15.231 *et seq.*

FOIA Coordinator: The individual designated in ¶2 above, as approved by the adoption of Resolution 15-08 and 15-09 by the Village Council of the Village of Fife Lake, who is responsible for the acceptance, processing, approval, and/or denial of FOIA Requests on behalf of the Village.

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

Public Body: The Village of Fife Lake and its duly constituted departments, commissions, boards, authorities, 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.

4. FOIA Requests. All requests for public record(s) from the Village must be in writing and submitted to the FOIA Coordinator. A FOIA Request must sufficiently describe the public record(s) so as to enable the Village to find the record(s). The Village shall provide a FOIA Request form that any person may utilize. Any Village official or employee that receives a FOIA Request shall immediately provide the request to the FOIA Coordinator.

a. **Exceptions.** No FOIA Request is necessary for the following: (1) Copies of assessment/tax records by the property owner of his/her property; (2) Copies of assessment/tax records that are reasonable and readily available at the time of the request; (3) Copies of all current meeting agendas; and (4) Copies of meeting minutes that are made available on-line by the Village at its website (if hard-copies of same are requested, then copy charges will apply).

b. **FOIA Request Sufficiency.** All FOIA Requests must contain the following:

b.i. The name of the requesting party.

b.ii. The mailing address of the requesting party or, if no mailing address, a statement that the requesting party will return on the fifth business day to receive the Village's FOIA response.

b.iii. A statement that the requesting party will pay the costs allowable under the FOIA, or documentation that the requesting party is receiving public assistance or other facts demonstrating an inability to pay due to indigence.

b.iv. A description of the public record sought by the requesting party.

b.v. A statement as to whether the requesting party would like to inspect, copy, or receive copies of the public record(s) (if copies, what form of copy is desired; e.g., paper, disc, electronic mail, etc.).

c. **Alternative Delivery of FOIA Request.** A written request made by facsimile, electronic mail, or other electronic transmission shall be considered received 1 business day after the transmission is completed. If the transmission is delivered to a spam or junk-mail folder, then the transmission shall be considered received 1 business day after the transmission is discovered.

d. **Oral FOIA Requests.**

d.i. If an oral request for a public record(s) of the Village is for information that the Village makes available on-line, the Village employee receiving such a request shall inform the requesting party of the website address (to

the extent practicable). If hard copies or an inspection of public records are requested, then a written FOIA Request will be required.

- d.ii. Persons with special needs should contact the FOIA Coordinator to insure that arrangements for special needs or reasonable facilities are prepared. The FOIA Coordinator shall accept a disabled person's oral FOIA Request by assisting with the writing out of that request and then treating that request as a formal written FOIA Request.
- e. **Examination/Inspection of Public Records.** Upon request, a person will be provided with a reasonable opportunity to examine the public records provided by 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 certain 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.
- f. **Subscription to Regularly Published Records.** A person has the right to subscribe to future issuances of regularly published public records as outlined in Section 3 of the Act for a period of six months or less. This request may be renewed. The FOIA Coordinator must sign the request form to confirm that the public record is one that is regularly published. The Village requires that an escrow deposit of Twenty-five (\$25.00) Dollars be paid when a request for copies of regularly published public records is made to the FOIA Coordinator. The Village will charge against the escrow for the costs of copying and postage as outlined in Section 6. There will be no labor charges since this must be a public record that is routinely developed. An account sheet for the number of copies and costs for mailing will be maintained by the FOIA Coordinator. If the escrow deposit is reduced to one (\$1.00) Dollar or less prior to the expiration of the request, the FOIA Coordinator will contact the requesting party for an additional deposit or termination of the request.
- g. **Certified Copies of Public Records.** The FOIA Coordinator shall provide a certified copy of a public record if the requesting party requests same in writing.
- h. **Existing Records Only.** 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. All public records shall be retained in accordance with the Village's approved Record Retention Policy & Schedule. Neither the public body nor the FOIA Coordinator are obligated to provide answers to oral or written questions. The FOIA Coordinator shall provide

copies of any public record 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.

5. FOIA Processing by Village. The FOIA Coordinator shall process each FOIA Request according to the following procedures:

a. **FOIA Response.** Once received, the FOIA Coordinator shall respond to a FOIA Request within 5 business days by doing one of the following (unless otherwise agreed to by the requesting party):

a.i. Granting the request;

a.ii. Issuing a signed written notice denying the request that contains:

a.ii.1. An explanation of the basis under the Act for which the FOIA Coordinator found the record exempt from disclosure;

a.ii.2. A certificate that the public record does not exist by the name given or another name reasonably known to the FOIA Coordinator;

a.ii.3. A description of the public record that is separated or deleted; and

a.ii.4. The following, verbatim: *“If you receive written notice that your request was denied in whole or in part, you may, at your option, either 1) submit to the FOIA Coordinator a written appeal that specifically states the word “appeal” and identifies the reason(s) you believe the denial should be reversed; or 2) file a civil action in the Grand Traverse County Circuit Court to compel the Village of Fife Lake’s disclosure of public records within 180 days after the Village’s final determination to deny a request. If, after judicial review, the Circuit Court determines that the Village has not complied with the FOIA and orders disclosure of all or a portion of a public record, you may be awarded attorney’s fees and damages as provided by Section 10 of the FOIA.”*

a.iii. Granting the request in part and issuing a signed written notice denying the request in part which includes the requirements in subsection ii. above; or

a.iv. Issuing a notice extending for not more than 10 business days the period during which the FOIA Coordinator shall respond to the request which includes the reason for the extension and the date by which he or she shall respond in a manner set out in this subsection 5(a)(i) through (iii).

- b. **Additional Writing to Requesting Party.** All responses to a FOIA Request shall also include the following:
- b.i. An invoice containing a detailed itemization of the fee charged pursuant to Section 6 below.
 - b.ii. Information indicating where to inspect or receive copies and pay the charged fee;
 - b.iii. If the public record is made available on-line by the Village, the internet address where such information is available and a statement that there will be an additional charge for production of copies of those records;
 - b.iv. The following statement: *“The Village does not warrant or guarantee the accuracy of the information provided. Rather, it provides the documents in good faith and in compliance with the Michigan Freedom of Information Act, and not for any other purpose.”*
- c. **Failure to Respond.** Failure to respond pursuant to subsection 5(a), above, shall constitute a final determination to deny the request if either of the following applies:
- c.i. The failure was willful and intentional; or
 - c.ii. The written request made the request for public records within the first 250 words of the request, or specifically included the following on the front of an envelope or in the subject line of the request: (a) “freedom of information”; (b) “information”; (c) “FOIA”; (d) “copy”; (e) a recognizable misspelling of the foregoing; or (f) reference to the FOIA statute or code.
- d. **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, copying, and/or production. 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 6.
- e. **Non-Traditional Records.** The Village of Fife Lake has limited in-house capabilities for copying photographs, audio or videotapes, microforms, maps or plans. If a person requests copies of these types of media or other large

documents which must be copied off-site, the FOIA Coordinator will determine and assess those costs pursuant to Section 6 below. 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 (at Village rates) will also be applied to the charges to the requesting party.

6. FOIA Fees and Costs. The FOIA Coordinator may charge a fee for copies and actual mailing costs for a FOIA response. In addition, the FOIA Coordinator may charge a fee for the cost of search, examination, review, and the separation and deletion of exempt from non-exempt records if the failure to charge a fee would result in unreasonably high costs to the Village of Fife Lake because of the nature of the request in the particular instance, and the FOIA Coordinator identifies the nature those unreasonably high costs in the FOIA response. All charged fees and costs shall be determined and adopted by separate resolution of the Village Council of the Village of Fife Lake, and shall be reviewed and amended, from time to time, as necessary.

a. Material, Equipment, and Mailing Costs.

Black and White Photocopies	\$0.10 per page
Compact Disc	\$1.00 per disc
Mailing	Actual mailing costs
Contracted Services for Producing Copies	Actual invoiced charge to Village of Fife Lake

b. Labor Costs. Labor costs shall be charged in increments of 15 minutes, with all partial time increments rounded down. Costs for labor are as follows:

b.i. Copies. Labor charges for making copies, creating compact discs, scanning documents, or faxing documents to respond to a FOIA Request shall be at the hourly wage of the lowest-paid Village of Fife Lake clerical employee, regardless of who makes said copies, plus fringe benefits as set forth below.

b.ii. Searching, Locating, and Examining. Labor charges for the necessary searching for, locating, and examining of public records to respond to a FOIA Request shall be at the hourly wage of the lowest-paid Village of Fife Lake employee capable of searching for, locating, and examining public records, regardless of who actually does such work, plus fringe benefits as set forth below.

b.iii. Separation and Deletion of Exempt Information. Labor charges for the necessary review associated with separating and deleting exempt information from non-exempt information shall be at the hourly wage of the lowest paid Village of Fife Lake employee capable of separating and deleting exempt information from non-exempt information, regardless of who actually does such work, plus fringe benefits as set forth below.

- a. The FOIA Coordinator shall hold an un-retrieved, completed FOIA response and all public records associated with that response for one year and one day from the date of completion. If the requesting party fails to pay the fee or retrieve the response and public documents prior to the expiration of that time, then the FOIA Coordinator may recycle, destroy copies, and/or return the documents to the appropriate department.
- b. The FOIA Coordinator shall maintain a chronological file of all FOIA Requests processed by him or her together with a copy of all public records provided as a part of that response, letters, and invoices for a period of one year and one day from the date of the completed response.

Village of Fife Lake
Freedom of Information Act Request Itemized Cost Worksheet

(Effective July 1, 2015)

<p>Pursuant to section 4 of the Michigan Information Act, MCL 15.234, the following costs will be charged for response to FOIA requests, according to the FOIA fee schedule adopted and periodically revised by the village council</p>	
<p>1. Labor Costs – to Locate</p> <p>This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. The Village will not charge more than the hourly wage of it's lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in 15 minute time increments.</p> <p>Hourly wages with fringe benefit charged <u>\$14.02</u> Charge per increment <u>\$3.50</u></p>	<p>Number of Increments</p> <hr/> <p>Total labor costs</p> <hr/>
<p>2. Labor Cost for Copying</p> <p>This is the cost of labor directly associated with duplication of publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requester on non-paper physical media or through the internet or other electronic means as stipulated by the requester. This shall not be more than the hourly wage of the Village's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in 15 minute time increments.</p> <p>Hourly wages with fringe benefit charged <u>\$14.02</u> Charge per increment <u>\$3.50</u></p>	<p>Number of Increments</p> <hr/> <p>Total labor costs</p> <hr/>
<p>3. Employee Labor Costs for Separating Exempt from Non-Exempt</p> <p>This fee is being charged because failure to do so will result in unreasonably high costs to the Village because of the nature of the request in this particular case, specifically:</p> <hr/> <p>This is the cost of labor of a village employee, including necessary review, directly associated with separating and deleting exempt from non-exempt information. This shall not be more than the hourly wage of the Village's lowest-paid employee capable of separating and deleting exempt from non-</p>	<p>Number of Increments</p> <hr/> <p>Total labor costs</p> <hr/>

<p>exempt information in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in 15 minute time increments.</p> <p>Hourly wages with fringe benefit charged <u>\$14.02</u> Charge per increment <u>\$3.50</u></p>	
<p>4. Copying (duplication or printing) Copying costs may be charged if a copy of public record is requested, or for the necessary copying of a record for inspection.</p> <p>Cost per sheet copy <u>\$0.10</u></p> <p>Cost per digital media copy <u>\$1.00</u></p>	<p>Number of sheets _____</p> <p>Cost of copies _____</p> <p>Number of Items _____</p> <p>Cost of Items _____</p>
<p>5. Mailing The Village will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. The Village will not charge more for expedited shipping or insurance unless specifically requested by the requester. The Village may charge for the least expensive form of postal delivery confirmation.</p> <p>Cost of Envelope or package _____ Cost of Postage _____ Postal Delivery Confirmation cost _____ *Expedited Shipping or insurance request cost _____</p>	<p>Total Cost of Postage _____</p>
<p>Proof or Affidavit of Insurgency Submitted Yes ___ No ___</p>	<p>Subtract \$20</p>
<p>Estimated Cost</p>	<p>\$ _____</p>
<p>Note: If Estimated Cost Exceeds \$50.00 a Good Faith Deposit of 50% is Required <u>Before</u> Request Will Be Processed</p>	<p>Date Paid _____</p> <p>Deposit Amount \$ _____</p>
<p>Note: Requests Will be Processed, But Balance Must Be Paid Before Copies May Be Picked Up, Delivered, or Mailed Date Paid _____</p>	<p>Balance Due \$ _____</p>