

VILLAGE OF BANCROFT
Summary of Freedom of Information Act Procedures and Guidelines

1) How do I submit a FOIA request to the Village of Bancroft?

- a) Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Village must be submitted in writing.
- b) Requests must sufficiently describe a public record so that the Village FOIA Coordinator can locate it.
- c) There is no specific form needed to submit a request, but a Village FOIA Request Form is available for your use. This FOIA Request form can be located on the Village website "villageofbancroftmi.org" or can be picked up at the Village Hall office during office hours.
- d) Written requests can be submitted by:
 - i) Fax to 989-634-5911. (Subject line must state "FOIA" or "FOIA Request" to insure proper delivery and handling)
 - ii) Email to "bancroftmichigan@gmail.com" (Subject line must state "FOIA" or "FOIA Request" to insure proper delivery and handling)
 - iii) By mail (PO Box 97, Bancroft, MI 48414-0097) or in person to the Village Hall office drop box or to office personnel located at located at 120 Warren Street.

2) What type of response will I get to my FOIA request?

- a) Within five (5) business days of receipt of your FOIA request, the Village will issue you a response.
- b) Requests submitted by fax or email will be deemed received on the following business day.
- c) The Village's response will include one of the following:
 - i) The granting of your request
 - ii) Written notice denying your request,
 - iii) Granting the request in part and a written notice denying the request in part,
 - iv) Written notice indicating that an additional amount of time of up to ten (10) business days will be needed to respond to your request.
 - v) Written notice that the public record you requested can be located free of charge on the Village's website.
- d) If granting the request is either granted or granted in part, the Village will ask that you make payment of the permissible fees associated with the granting of your request before the public record(s) is made available to you. If you have not paid for a previously granted FOIA request or if the costs of responding to your request is expected to exceed \$50.00, the Village will require that you submit a deposit before the Village will process your request.

3) What is the deposit requirement for payment of fees?

- a) If the Village makes a good faith calculation that the total fees for handling your FOIA request will exceed \$50.00, the Village will require that you provide a deposit of 50% of the total, estimated fee. The Village's quoted deposit is non-

binding and is an estimate based upon an estimate of the total fees to process your request. Your actual final fee may differ from the good faith calculation provided by the Village.

- b) Any person who submits a FOIA request received from a person who has not paid the Village for a prior FOIA request, will be required to post a deposit of 100% of the good faith estimated fees before the Village will begin to search for the newly requested public record when:
 - i) The final fee for the prior written request was not more than 105% of the estimated fee
 - ii) The newly sought public records contain information sought in the prior request and remain in the Village's possession.
 - iii) The prior public record were made available to the requesting person, subject to payment, within the time frame to provide the records, previously estimated by the Village.
 - iv) 90 days have passed since the Village notified the requesting person in writing that the public records were available for pickup or mailing.
 - v) The requesting person is unable to show proof of prior payment to the Village, and
 - vi) The Village has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- c) The Village will not require a 100% deposit of the estimated fee if any of the following apply:
 - i) The Village has been paid in full for all applicable prior written requests,
 - ii) The requesting person is able to show proof of prior payment in full for a prior request.
 - iii) One year has passed since submission of the prior request for which full payment was not received.

4) How are the FOIA processing fees calculated?

- a) A fee is not charged for the cost of search, examination, review and deletion and separation of exempt from nonexempt information unless failing to charge a fee would result in unreasonably high costs to the Village because of the nature of the request and the Village specifically identifies the nature of the unreasonably high costs.
- b) The Michigan FOIA law allows the Village to assess and collect a fee for six specific processing components. The Village may charge you for the following costs associated with processing your request for records:
 - i) Labor costs for searching for, locating and examining a public record.
 - ii) Labor costs to review a record to separate and delete information that is exempt from disclosure from information that can be disclosed.
 - iii) The costs of thumb drives, flash drives, computer discs or similar media when a requester asks for records in non-paper format.
 - iv) Costs of duplication or publication, not including labor, of paper copies of public records.

- v) Labor costs associated with duplication or publication, which includes making paper copies, digital copies or transferring digital public records through the internet or to non- paper physical media.
- vi) The costs to mail or send a public record to a requestor.
- c) Labor Costs:
 - i) All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.
 - ii) Labor costs will be charged at the hourly wage of the lowest-paid Village employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
 - iii) Labor costs may also include a charge to cover or partially cover the cost of fringe benefits.
- d) Non-Paper Physical Media
 - i) The cost for records to be provided on non-paper physical media, such as computer discs, flash drives or other digital or similar media will be at the actual and most reasonably economical costs for the non-paper media.
 - ii) This cost will only be assessed if the Village has the technological capability necessary to provide the requested public record(s) in the requested non-paper physical media format.
- e) Paper Copies
 - i) Paper copies of public record made on standard letter (8.5" x 11") or legal (8.5" x 14") sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
 - ii) The Village may provide records using double-sided printing, if cost-saving and available.
- f) Mailing Costs
 - i) The cost to mail public records will use a reasonably economical and justified means.
 - ii) The Village may charge for the least expensive form of postal delivery confirmation to insure receipt of delivery.
 - iii) No cost will be made for expedited shipping or insurance unless requested and paid for by the requesting person.

5) Can I qualify for reduced processing fees?

- a) The Village may waive or reduce fees associated with a request when the Village determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public.
- b) The Village will waive the first \$20.00 of a processing fee for a request if you submit a signed affidavit stating that you are :
 - i) Indigent and receiving specified public assistance; or
 - ii) If not receiving public assistance, stating facts demonstrating an inability to pay because of indigency.
- c) You are not eligible to receive the \$20.00 waiver if you:
 - i) have previously received discounted copies of public records from the Village twice during the same calendar year; or

- ii) Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- d) An affidavit is a sworn statement, made under oath and subject to the penalties of perjury. For your convenience, the Village has an Affidavit of Indigency form available on its website or at the Village office to use for applying to waive FOIA fees. You are responsible to have this Affidavit notarized by a Notary Public.
- e) The Village will waive the fee for a nonprofit organization which meets all of the following requirements:
 - i) 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;
 - ii) The request is made directly on behalf of the organization or its clients;
 - iii) The request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
 - iv) 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 a fee I believe to be excessive?

- a) Appeal of 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 Village President. The appeal must be in writing, specifically state the word "appeal" and identify the reason(s) you are seeking a reversal of the denial.

Within 10 business days of receiving the appeal, the Village President will respond in writing by:

- i) Reversing the disclosure denial;
- ii) Upholding the disclosure denial; or
- iii) 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 Village President, you may file a civil action in the Shiawassee County Circuit Court within 180 days after the Village's final determination to deny your request. Should you prevail in the civil action, the Court will award reasonable attorney fees, costs and disbursements. If the Court determines that the Village acted arbitrarily and capriciously in refusing to disclose or provide a public record, the Court shall award you damages in the amount of \$1,000.00.

- b) Appeal of an Excessive FOIA Processing Fee - If you believe that the fee charged by the Village 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 Village President. The appeal must be in writing and specifically state the word "appeal". You must identify how the required fee exceeds the amount permitted by law.

Within 10 business days after receiving an appeal, the Village President will respond in writing by:

- i) Waiving the fee,
- ii) Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee,
- iii) Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee, or
- iv) Issuing a notice detailing the reason(s) for extending for not more than an additional 10 business days the period of time during which the Village President will respond to the written appeal.

Within 45 days after receiving notice of the Village President's determination of the processing fee appeal, you may file a civil lawsuit in the Shiawassee County Circuit Court for a fee reduction. If you prevail in the civil lawsuit by receiving a reduction of 50% or more of the total fee, the Court may award all or an appropriate amount of reasonable attorney's fees, costs and disbursements. If the Court determines that the Village acted arbitrarily and capriciously by charging an excessive fee, the Court may also award you punitive damages in the amount of \$500.00.