

**VILLAGE OF ARMADA
FREEDOM OF INFORMATION ACT
POLICY**

Purpose: The Michigan Freedom of Information Act (FOIA) defines the public records that are subject to disclosure and requires that public bodies adopt a written Freedom of Information Act policy and a public summary of the policy. The following policy is intended to comply with the FOIA as amended and effective July 1, 2015. By resolution of the Village Council enacted at a regular meeting on June 22, 2015, the Village of Armada shall adhere to the following policies and procedures effective July 1, 2015, and continuing until such time as this document is amended by formal action of the Village Council or state law preempts any of the following provisions.

A. Definitions

Act or FOIA: 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 responsible for processing requests for public records as outlined in this Policy and the Act, and who is responsible for approving denials and processing requests, or that individual's designee.

Person: An individual, corporation, organization, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility or a federal correctional facility, nor does it include non-legal entities.

Public Body: The Village of Armada and its duly constituted departments, councils, 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. Public record does not include computer software.

Regularly Published Public Record: A Public Record that is created by the Village, issued by the Village, or publicly disseminated by the Village on a regular basis. Examples include public notices of Village meetings, agendas for open Village meetings, minutes for open Village meetings, and similar documents. Documents created, issued, or disseminated by third parties are not included in this definition.

Unusual Circumstances: Circumstances entailing one or a combination of the following, but only to the extent necessary for the proper processing of a request:

1. The need to search for, correct, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request, or
2. The need to collect public records from numerous locations apart from the office receiving or processing the request.

Written Request: A writing that asks for information, including a writing transmitted by facsimile, electronic mail, or other electronic means

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

B. Right to Records

Village departments should not withhold public records unless disclosure of all or part of a record is prohibited by state or federal law; one of the exemptions in the Act applies to all or part of the record; or the information or record requested does not fall under the coverage of the FOIA and/or is not related to the operation of government.

- 1) If a person submits a written request for public record(s) to the Village, such request shall be transmitted to the FOIA Coordinator as soon as possible. The request must sufficiently describe the public record to enable the FOIA Coordinator to identify the requested public record. Verbal requests for public records, or any type of request other than a written request, may be recognized and accepted by the FOIA Coordinator if the FOIA Coordinator implements an internal guideline specifying the nature of any verbal requests that will be honored. If a requesting person is disabled, either temporarily or permanently, to the extent that he or she is unable to make a written request, then Village personnel must write out the request for the citizen as an accommodation under the Americans with Disabilities Act.
- 2) A person has the right to inspect a public record, unless exempted by law or court order, during usual business hours, subject to Section E of this Policy, which sets forth the reasonable inspection rules adopted by the Village that are necessary to:
 1. protect public records from loss, unauthorized alteration, mutilation, or dissection, and
 2. prevent unreasonable interference with the discharge of Village functions.

- 3) Original public records will not be released from the Village offices pursuant to a FOIA request. A person may request that copies of a public record be provided subject to the payment of fees outlined in Section D of this policy and the Act. A person shall not receive copies of the requested public records unless all fees due to the Village are paid in full.

C. Rights and Obligations of the Public Body

- 1) The FOIA Coordinator shall provide reasonable facilities and opportunities for a person to inspect public records, consistent with Section E of this Policy.
- 2) The Village is not obligated to create a new record, list, compilation, report, or summary of information; this includes analyzing, compiling, or summarizing existing information in a new format and converting existing information to an electronic format. Neither the public body nor the FOIA Coordinator is obligated to provide answers to oral or written questions or to perform any other function beyond that required by the Act.
- 3) The FOIA Coordinator shall provide copies of non-exempt and/or appropriately redacted public records consistent with the Act and shall retain a copy of all written requests on file for a period of not less than one year. The FOIA Coordinator will follow the provisions of Section D of this Policy.

D. Provisions for Copying Public Records

- 1) The Village shall adopt, by resolution, a schedule of fees regarding the provision of copies of public records. All FOIA requests submitted pursuant to the Act shall be subject to the fees and charges adopted by the Village, except as otherwise provided by law. Fees and charges shall include those items provided for by the Act including, without limitation, the following:
 - a) The actual total incremental cost of necessary duplication or publication for paper copies of public records provided to the requester, calculated as a total cost per sheet. The law limits the Village's copy charge to a maximum of \$0.10 per page. The total number of paper copies that are made in response to a FOIA request must be tracked and itemized, using the per-page cost established by the Village for black and white copies and for color copies. All copies must be double-sided, if it will save on costs and if it is possible to do so, unless the requester stipulates to single-sided copies.

Exception: The actual cost may be charged for paper of a size different than letter or legal size.

- b) Actual mailing costs, as well as the cost for envelopes or other containers used for mailing copies of the public records requested. In instances when postal delivery confirmation is desired, the actual mailing costs will include the least expensive form of such confirmation.
- c) Labor costs directly associated with the necessary searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request, when the failure to charge a fee results in unreasonably high costs to the Village as determined by the FOIA Coordinator. Labor costs must be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. Labor costs do not apply to written requests that are denied or verbal requests that are granted. An unreasonably high cost to the Village will be deemed to occur at the point when an employee spends 15 minutes or more to search for, locate, and examine public records as a result of receiving and fulfilling a granted written request.
- d) Labor costs directly associated with the separating and deleting of exempt from nonexempt information (known as "redacting"). Labor costs must be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. Labor costs for redacting do not apply to written requests that are denied or verbal requests that are granted. If no Village employee is able to review and redact any or all of the requested records, the individual acting as the FOIA Coordinator may ask the Village Attorney to conduct the redaction. The Village Attorney's time shall be billed as a labor cost at a rate of 6 times the Michigan minimum wage. Labor costs for redaction will not be charged if the individual acting as the FOIA Coordinator or an employee in the Village knows or has reason to know that a redacted version of the same requested record is still in the Village's possession. Labor costs for redaction will not be charged unless failure to charge would result in unreasonably high costs to the Village because of the nature of the request in the particular instance. Unreasonably high costs will be deemed to occur at the point when an employee or outside contractor spends 15 minutes or more to redact the requested record(s).

- e) The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requester on nonpaper physical media or through the internet or other electronic means as stipulated by the requester. Labor costs for this category of work shall be estimated and charged in increments of 1 minute, with all partial time increments to be rounded down.
- f) The actual and most reasonably economical cost of the media utilized to provide copies of public records to a requester. A requester may stipulate that the requested records be provided on nonpaper physical media, and the stipulation must be honored unless the Village lacks the technological capability necessary to do so. In order to ensure the integrity and security of the Village's technological infrastructure, the Village will procure any requested non-paper media and will not accept or utilize non-paper media from the requester.

These costs may be imposed, if applicable, even when a requester does not actually receive copies, but instead requests the opportunity to review the requested records.

- 2) Employees should keep track of the amount of time they spend on each request in increments of 15 minutes, rounding down if the final increment is less than 15 minutes, except the time spent actually making copies (using any media) should be kept in increments of 1 minute, also rounding down if the final increment is less than 1 minute. Regardless of which employee fulfilled the request, the charge for labor shall only reflect the cost of the lowest paid Village employee capable of performing each task (finding the records, redacting the records, and copying the records). That charge should then be multiplied by the applicable fringe benefit multiplier (different multipliers may apply to different employee categories) in order to recoup the Village's fringe benefit costs up to 50% or the actual fringe benefit costs, whichever is less. Overtime wages may not be used to calculate the fringe benefit multiplier. However, overtime wages may be recovered as a labor cost if the requester stipulates to being charged for overtime.
- 3) The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because release of the record(s) can be considered as primarily benefiting the general public.
- 4) A copy of a public record must be furnished without charge for the first \$20.00 of the fee of each request to an individual who submits an affidavit

that he or she is indigent and receiving public assistance or, if not receiving public assistance, stating facts showing an inability to pay the cost because of indigency. All costs over \$20.00 may be charged to the requester. A requester may only utilize this indigency option twice during any calendar year, so all indigency fee waivers should be tracked and recorded. An individual is not eligible for the indigency discount if he or she is requesting information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request.

- 5) Certain nonprofit organizations will not be charged for fulfilling their FOIA requests. These organizations are limited to those formally designated by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request is made directly on behalf of the organization or its clients, the request is made for a reason consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, and the request is accompanied by documentation of its designation by the State.
- 6) If a requested public record is available to the general public on the Village's website, the FOIA Coordinator must notify the requester in the Village's written response that all or a portion of the requested information is available on the Village's website. The specific website address where the information can be found must also be provided. If a requester still wants copies of those records after being notified of their availability online, the requester may be charged for the records in accordance with the six fee components itemized above, except the fringe multiplier may be greater than 50% if the actual fringe benefit multiplier is greater than 50%.
- 7) The costs charged for responses that are late will be reduced by 5% for each day that the response is late, with a maximum 50% reduction. The reduction will only be applied if the lateness was willful and intentional, or the written request included language that should have made it apparent that the request was a FOIA request, such as including a request for information within the first 250 words, or specific mention of "Freedom of Information Act," "FOIA," "Copy," or a recognizable misspelling of such, or legal code references to the FOIA such as "MCL 15.231," on the front of an envelope, in the subject line of the request, or on the cover page of a fax.
- 8) Where total fees and charges are reasonably anticipated to exceed \$50.00 (see FOIA Worksheet, Attachment B), the FOIA Coordinator is authorized to require that fifty percent of the estimated fees and charges be paid prior to beginning work on retrieving the requested records. The

deposit request must be itemized with estimates of each fee component (see above) and must include a “best efforts estimate” regarding the time frame it will take to provide the records to the requester. The time frame estimate must be made in good faith. It is not binding, but all other requirements of the FOIA remain in effect. The balance of the fees and charges owed to the Village must be paid in full, prior to the release of the public records.

- 9) If a person requests that paper copies are made of public records that the Village does not have the technology to make, such documents must be copied off-site and the FOIA Coordinator will determine and assess the actual 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 will also be applied to the copy-making component of the charges assessed to the person(s) requesting the public records.
- 10) The FOIA permits persons to request a subscription, valid for up to six months and renewable, to future issuances of public records created on a regular basis, *i.e.*, agendas and minutes of meetings. Copy fees and mailing charges for subscriptions will be arranged through the FOIA Coordinator.

E. Provisions for Inspection of Public Records

- 1) The FOIA Coordinator shall furnish the requesting person with a reasonable opportunity for inspection and examination of public records and furnish reasonable facilities for making memoranda or abstracts from public records available during usual business hours. The following rules shall apply to all requests for inspection of records:
 - a) 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.
 - b) A Village staff member must be present at all times during the inspection of Village records if any original records are involved, to protect the records from loss, unauthorized alteration, mutilation, or destruction. In order to defray the Village’s cost of this monitoring service, a fee shall be paid to the Village for personnel time, as provided in Section D of this Policy.
 - c) Original documents may be removed from and replaced in Village files only by authorized Village staff.

- d) A requester may not remove records or files from the area provided for inspection unless those documents are copied specifically for the requester by authorized Village staff.
 - e) The FOIA Coordinator or designee will determine, on a case-by-case basis, whether a requester may inspect an original public record, or only a copy of the record. A fee may be charged for necessary copies that are made in order to enable public inspection of records, in accordance with Section D of this Policy. Situations where original records are likely to require copying prior to inspection include the following:
 - i) The records include exempt information that must be redacted.
 - ii) The records are old or delicate, or contain information that could not easily be replicated.
 - iii) The records are in digital format or are part of a database not available for public inspection.
 - iv) Providing copies would be less disruptive to the performance of Village functions than providing the necessary staff oversight required for inspection of original records.
- 2) A person requesting to inspect Village records will be assigned an appointment by the Village Clerk in the FOIA response. Appointments will occur during the Clerk's regular business hours. The date and time of appointments for inspection will be determined by the Clerk. Appointments will typically occur 10 or more business days after the inspection request is received, to allow Village staff to make appropriate arrangements to:
- a) Find and gather the requested information, if available;
 - b) Determine whether any of the requested information is exempt from disclosure under the FOIA;
 - c) If applicable, separate the exempt information from the non-exempt information, and prepare a written statement identifying the exempt information and citing the particular provision or provisions of the FOIA under which the information is exempt;

- d) Provide reasonable, secure facilities for inspection and examination;
 - e) Provide adequate protection of original public records; and
 - f) Coordinate regular department/unit functions while the inspection occurs.
- 3) The Clerk will make reasonable efforts to allow a requester to inspect records for up to three hours per appointment; provided, however, that inspections will be cut short, postponed, or rescheduled when necessary to avoid unreasonable interference with the Village staff's performance of their primary functions.
- 4) Photography of records that would otherwise be released without redaction (or as already redacted) will be allowed, except that each department may establish its own security and privacy protocols governing photography during the inspection.
- 5) Before the inspection and examination begins, the identity and contact information of the requester shall be confirmed. The fees authorized by the FOIA should then be estimated, itemized, and presented to the requester so that the requester understands the approximate cost that will be charged at the conclusion of the inspection and examination. If it reasonably appears that the inspection request will involve fees greater than \$50.00, a deposit of ½ the estimated total fee should be required prior to allowing the inspection and examination. At the end of the inspection and examination, the itemized fees shall be updated, finalized, and presented to the requester for immediate payment at that time. Any requester who fails to pay shall be invoiced by the Village and shall be subject to the "delinquent payer" rules set forth below.

F. Procedures of the Public Body to Process the FOIA Request

- 1) The Village shall respond to a request for public records in a manner consistent with the Act. Each written request for information must be treated as a request to receive copies of, or inspect, public records under the FOIA. Unless the requesting person agrees to a different timeframe in writing, the Village must respond to a request within five business days after receiving the request. The time period allowed for responding begins when the request is received. A written request made by facsimile, electronic mail, or other electronic transmission is not deemed to have been received by the Village until one business day after the facsimile, electronic mail, or other electronic transmission is made. However, if an e-mail request is filtered into a junk mail box or some other spam folder, it will be considered received 1 day after it is found. For purposes of this

policy, any e-mail requests that are sent to or discovered in an e-mail account of a former employee or any other account that has been or should have been deactivated will be deemed to have been found in a junk mail box or spam folder. All written requests should be time-stamped upon receipt. The date of the request and the date it is discovered should be documented on the response form. The FOIA Coordinator shall respond to a request for a public record by doing any of the following:

- a) Granting the request. The following shall apply to granted requests:
 - i) If the request indicates that the person desires to inspect the public records, the FOIA Coordinator will send a proposed date and time for inspection in the response, in accordance with Section E of this Policy.
 - ii) If the request is for copies of a public record, and the anticipated fees and charges exceed \$50.00; the FOIA Coordinator may first send a FOIA Itemization to the person and request a 50% payment of the anticipated charges and fees.
 - iii) Upon receiving the requester's deposit, the FOIA Coordinator will fill the request and send a bill for the remaining amount due. Upon receipt of full payment, the FOIA Coordinator will provide copies of the nonexempt portion of the requested public records in the format stipulated by the requester (unless prohibited by law or other security protocols).
- b) Issuing a written notice denying the request. The notice of denial shall include:
 - i) An explanation of the basis for the determination that the requested public record, or portion of it, is exempt from disclosure, if exemption is the reason for denial, or a certification that the requested public record does not exist or has not been described sufficiently to enable the Village to locate it.
 - ii) A description of a public record that is not being disclosed, or information in a public record that is deleted/redacted pursuant to this policy, as applicable.

- iii) A full explanation of the requesting person's right to appeal the denial to the Village Council or seek judicial review of a denial in accordance with the Act.
 - iv) Notice of the right to receive attorney fees and damages as provided in the Act, if a court orders disclosure of all or part of a public record.
 - v) The signature of the FOIA Coordinator.
 - vi) Notice of the Village's website address where this Policy and the Summary can be found.
- c) Granting the request in part, and issuing a written notice denying the request in part. In this instance, the denial will be treated consistent with Section F.1.b of this Policy.
 - d) Issuing a written notice extending the time in which to respond to the request by no more than ten business days, specifying the reasons for the extension. The estimated date by which the Village will send its final determination must also be included.
- 2) If a person does not sufficiently describe a public record so as to enable the FOIA Coordinator to locate the same, the FOIA Coordinator shall notify the person that the request is deficient. The notice shall serve as a denial under this policy and the Act. The notice shall include the relevant language from the Act. A subsequent written request is considered a new request and subject to the timelines described in this Policy.
 - 3) Every FOIA request should receive one of the responses set forth above. Failure to respond could be considered a denial by the courts, which may require fines and penalties be imposed against the Village.

G. Procedures for Separation of Records

If a request is made for an existing public record that includes information which is exempt from disclosure and information which is not exempt, the FOIA Coordinator will separate the material (redaction) and make the non-exempt material available for examination and/or copying. All personal and private information shall be redacted from the materials being furnished prior to their release, along with all other material exempt under the Act. Additionally, if the nature of the exempt material is not readily apparent, the FOIA Coordinator shall include in the response a short summary or explanation of the material that was redacted, unless doing so would reveal the contents of the exempt information and defeat the purpose of deleting the exempt material. The labor cost(s)

associated with such procedures shall be treated in accordance with Section D of this Policy. If the request itself or the redaction of responsive records may involve legal concerns, the Village Attorney should be consulted and may assume the redaction role or review the redactions proposed by the FOIA Coordinator.

H. Designation of FOIA Coordinator

The Village Clerk is designated to be the Village's FOIA Coordinator. In addition, the FOIA Coordinator may authorize a designee to act as the FOIA Coordinator in the Clerk's absence or unavailability. The FOIA Coordinator and designees shall be responsible for accepting and processing requests for public records and approving denials in accordance with the Act.

I. Verbal Requests and Non-FOIA Options

- 1) Village staff may fill verbal requests if the Village Clerk enacts an internal policy which explains the process for doing so. If verbal requests are permitted, and the requested information is available on the Village's website, the employee handling the verbal request must (where practicable and to the best of the employee's knowledge) inform the requester about the Village's pertinent website address. If the requester chooses not to access the website to obtain the information or records, a written request will be required. In addition, if a verbal request cannot be filled in its entirety with minimal disruption of staff time, or if redaction is necessary, a written request will be required.
- 2) Unless another, more specific, law applies, every written request for public records must be handled as a FOIA request. Some departments of the Village provide services, however, for specific or routine requests, particularly from corporate entities. Although the FOIA applies, the Village is not prohibited from offering the requester an alternative option. Therefore, the FOIA Coordinator may create an internal list of records requests that have traditionally been provided to requesters for a predetermined fee, rather than providing the records through FOIA. Upon receipt of one of the listed requests, or in response to a verbal (in-person) request, the Village may offer the requester the option of receiving the requested records for a flat fee, rather than receiving them under FOIA for the required itemized fees and costs. If the requester selects the option of receiving the records as a service, the FOIA response form must refer to that decision in order to confirm the requester's consent in writing. For verbal (in-person) requests, the requester should be asked to sign a form indicating that the records are being provided as a spontaneous service rather than under FOIA.

J. Delinquent Payers

If a requester does not pay for requested records, a deposit of 100% of the estimated cost may be required from the requester before filling any subsequent written requests from that requester, so long as the final fee for the unpaid request did not exceed 105% of the estimated fee, and so long as the Village still has the records requested in the prior request, and so long as the deadlines of the FOIA were met when responding to the prior request, and so long as 90 days or more have passed since notifying the requester in writing that the records were available, and so long as the requester cannot show proof that the prior bill was paid, and so long as the new estimated fee deposit is calculated as required by the FOIA (using the six fee components listed above).

Exceptions: To avoid the 100% deposit requirement, the requester may pay the prior bill in full. In addition, the 100% deposit requirement will not be imposed if more than 365 days have passed since the prior written request was made.

K. Appeals

A requester may submit a written appeal of a denial, partial denial, or a fee that is charged in accordance with the following process:

- 1) The appeal must be submitted in writing to the Village Council, c/o the Village Clerk.
- 2) The written appeal must specifically state the word “appeal” and identify the reason or reasons for the reversal of the denial decision or the reasons why the required fee exceeds the amount permitted under the Village’s policies and/or the FOIA.
- 3) Where a written appeal is received by the Village Clerk consistent with this Policy and the Act, it will be considered received by the Village Council at the Council’s next regular meeting, after which the Village Council (through the Village Clerk) has 10 business days to issue a response, which shall be one (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) Waive the fee that is being appealed.

- (e) Reduce the fee that is being appealed.
- (f) Uphold the fee that is being appealed.
- (d) Under unusual circumstances, issue a notice extending for not more than ten (10) business days the period during which the Village will respond to the written appeal. The Village shall not issue more than one (1) notice of extension for a particular written appeal.

L. Conflicting Policies

To the extent that this Policy conflicts with previous FOIA policies promulgated by the Village Council or any individual department or official, this Policy is controlling. To the extent that any internal policy promulgated by the FOIA Coordinator subsequent to the adoption of this Policy is found to be in conflict with any previous policy promulgated by the Village Council or any individual department or official, the internal policy promulgated by the FOIA Coordinator is controlling. To the extent that any provision of this Policy or any internal policy promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any state or federal statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the Village Council or the Village Administration, and to adopt such internal rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to the FOIA, provided that such modifications and rules are consistent with state law, approved by the Village Attorney, and include a clear effective date. The FOIA Coordinator shall inform the Village Council of any change to this Policy, but ratification by the Council is not required for the change to become effective.

M. Amendment

The Village Council may, from time to time, amend or supplement these rules and guidelines, in the Council's sole discretion.

ATTACHMENT A

FREEDOM OF INFORMATION ACT REQUEST

ATTACHMENT B

FREEDOM OF INFORMATION ACT ITEMIZATION

**FREEDOM OF INFORMATION ACT FEE ITEMIZATION
VILLAGE OF ARMADA**

Fringe Benefit Multiplier x Applicable Hourly Rate _____ % x \$ _____ (Search) _____ % x \$ _____ (Redaction) _____ % x \$ _____ ÷ 60 (Duplication)	Total Labor Charges Per Hour \$ _____ per hour for the search \$ _____ per hour for redaction \$ _____ per minute for duplication	
Labor costs for searching for, locating, and examining public records in order to fulfill a granted written request	_____ hours x \$ _____ per hour (Increments of ¼ of an hour, rounded down)	\$ _____ plus
If done by a Village employee, labor costs directly associated with separating and deleting exempt information from nonexempt information ("redaction")	_____ hours x \$ _____ per hour (Increments of ¼ of an hour, rounded down)	\$ _____ plus
If done by a contractor, labor costs directly associated with separating and deleting exempt information from nonexempt information ("redaction")	_____ hours x \$ _____ per hour Contractor: _____ (Increments of ¼ of an hour, rounded down, hourly rate not to exceed 6 times minimum wage)	\$ _____ plus
Labor costs directly associated with duplication or publication, including making paper or digital copies or transferring digital public records onto nonpaper physical media or through other electronic means	_____ minutes x \$ _____ per minute (Increments of 1 minute, rounded down)	\$ _____ plus
Actual cost of any media	_____ media x \$ _____ per media _____ media x \$ _____ per media	\$ _____ plus
Actual total incremental cost of necessary duplication or publication for paper copies of public records, not including labor (8½ x 11 and/or 8½ x 14 only)	_____ sheets x \$ 0.05 per b&w sheet _____ sheets x \$0.10 per color sheet	\$ _____ plus
Actual total incremental cost of necessary duplication or publication for paper copies of public records, not including labor (<u>not</u> 8½ x 11 or 8½ x 14)	_____ sheets x \$ _____ per b&w sheet _____ sheets x \$ _____ per color sheet	\$ _____ equals
Subtotal		\$ _____ plus
Actual cost of mailing (may include least expensive form of postal delivery confirmation)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not Applicable	\$ _____ minus
Indigency cost waiver (first \$20) (affidavit provided)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not Applicable	(\$ _____) minus
State-designated non-profit agency waiver	<input type="checkbox"/> Applicable <input type="checkbox"/> Not Applicable	(\$ _____) minus
Good Faith Deposit	<input type="checkbox"/> Paid	(\$ _____) equals
Total Owed (Check or Money Order Payable to Village of Armada)		\$ _____

Date: _____

 FOIA Coordinator or Designee

_____ Request Identifier and Date Received

ATTACHMENT C

VILLAGE CLERK FOIA RESPONSE

VILLAGE OF ARMADA

FREEDOM OF INFORMATION ACT RESPONSE

Form of Request: Village's Form U.S. Mail Facsimile E-Mail (Junk/Spam Folder? Yes No) Other: _____

Request Identifier and Date Received: _____ First Discovered in Junk/Spam Folder: n/a _____ by _____ (initials)
Date

THE FOLLOWING ACTION IS BEING TAKEN IN RESPONSE TO YOUR REQUEST:

- YOUR REQUEST HAS BEEN:** GRANTED DENIED DENIED IN PART
Note: If your request has been denied or denied in part, the basis for the denial is listed on reverse.
- The period for responding to your request is being extended by as many as ten (10) additional business days. Your request will be granted, denied, or denied in part by: _____. This extension is necessary because:
- The Village needs to search for, collect, or examine or review a voluminous amount of separate and distinct public records pursuant to your request.
 - The Village needs to search and collect the requested public records from numerous departments, facilities, or other locations separate from the Village Clerk's office.
 - Other: _____
- All / Some of the public records you have requested are available on the Village's website at www.villageofarmada.org. Those records will not be provided unless you stipulate that you still wish to receive copies. Additional charges may apply for providing public records that are available on the website.
- Pursuant to your written and/or verbal consent:
- Your request has been modified: _____
 - You have agreed to pay the extra cost for single-sided copies.
 - You have agreed to pay a pre-set fee to obtain records and/or information as a Village service rather than utilize the FOIA process: \$ _____
 - You have agreed to pay the extra cost for overtime.
 - You have only requested an on-site inspection of public records.
Date/Time/Location of Inspection: _____
 - You have agreed that the deadline for filling your request will be extended to:
Date: _____

Description of any public records being withheld or information on a public record that was redacted (if any):

Approved By: _____ Dated: _____

Under Section 10 of the Michigan Freedom of Information Act, a person receiving written denial of the information requested has the right to submit to the Village Council a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial, or to commence an action in circuit court to compel disclosure of the public record within 180 days after a final determination to deny the request. If, in a circuit court action, the court finds that some or all of the information withheld by a public body was not exempt from disclosure, the party requesting such information may receive the requested records and may receive reasonable attorney fees, costs, or an appropriate portion thereof, and may also receive actual, compensatory, and/or punitive damages if a denial or delay is deemed to have been an arbitrary and capricious violation of the Act.

Under Section 10A of the Michigan Freedom of Information Act, you have a separate right to appeal a fee that you believe exceeds the amount permitted under the Village's written Procedures and Guidelines or Section 4 of the Act. You may submit a written appeal to the Village Council for a fee reduction or waiver that specifically states the word "appeal" and identifies how the fee exceeds the permitted amount. If you do not receive a response within 10 business days or your appeal is denied, you may then commence an action in the Macomb County Circuit Court for a fee reduction within 45 days. If you commence a civil action, the Village is not obligated to complete processing the request until the court resolves the fee dispute. If you prevail by receiving a reduction of 50% or more of the total fee, the court may award you an appropriate portion of reasonable attorneys' fees, costs, and disbursements, as well as damages if the Village arbitrarily and capriciously violated the Act.

The Village's specific procedures and guidelines, as well as a written summary and the standard form for detailed itemization of FOIA response fees, may be viewed at www.villageofarmada.org.

Village Clerk's reason(s) for denial in whole or in part:

- FOIA Section 13(1)(a): The information requested is of a personal nature, and public disclosure would constitute a clearly unwarranted invasion of an individual's privacy.
- FOIA Section 13(1)(d): The requested information constitutes records or information specifically described and exempted from disclosure by state or federal statute.
- FOIA Section 13(1)(e): The requested information constitutes a public record or information described in Section 13 that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, and the considerations originally giving rise to the exempt nature of the public record remain applicable.
- FOIA Section 13(1)(g): The requested information constitutes information or records subject to the attorney-client privilege or other privilege recognized by statute or court rule.
- FOIA Section 13(1)(i): The requested information constitutes a bid or proposal by a person to enter into a contract or agreement, prior to the time for the public opening of bids or proposals, or where a public opening is not to be conducted, prior to expiration of the deadline for submission of bids or proposals.
- FOIA Section 13(1)(j): The requested information constitutes appraisals of real property to be acquired by the public body, and:
 - An agreement has not been entered into; or
 - 3 years has elapsed since the making of the appraisal and all litigation relative to the acquisition has terminated.
- FOIA Section 13(1)(k): The requested information constitutes test questions and answers, scoring keys, or other examination instruments or data used to administer a license, public employment, or academic examination, and the public interest in disclosure does not outweigh the public interest in nondisclosure.
- FOIA Section 13(1)(m): The requested information constitutes communications and notes within a public body or between public bodies of an advisory nature, covering other than purely factual materials and which are preliminary to a final agency determination of policy or action, and in this instance the public interest in encouraging frank communications between officials and employees of public bodies clearly outweighs the public interest in disclosure.
- FOIA Section 13(1)(p): The requested information constitutes testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, and disclosure of the data would reveal that only 1 bidder has met the specifications, and 1 year has not yet elapsed from the time the public body completed testing.
- FOIA Section 13(1)(u): The requested information constitutes records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.
- FOIA Section 13(1)(v): The requested information constitutes records or information relating to a civil action in which the requesting party and the public body are parties.
- FOIA Section 13(1)(w): The requested information constitutes information or records that would disclose the social security number of any individual.
- FOIA Section 2(e): The requested information is not a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function from the time it was created.
- FOIA Section 1(2): The requested information does not serve the core purposes of FOIA because it is not information regarding the affairs of government, nor the official acts of those who represent the public as public officials and public employees, and/or the information does nothing to inform the public so that they may fully participate in the democratic process.
- FOIA Section 5(b): The public record does not exist under the name given in the request or by any other name reasonably known.
- Other: _____

ATTACHMENT D

POLICE DEPARTMENT'S FOIA RESPONSE

VILLAGE OF ARMADA

FREEDOM OF INFORMATION ACT RESPONSE

Form of Request: Village's Form U.S. Mail Facsimile E-Mail (Junk/Spam Folder? Yes No) Other: _____

Request Identifier and Date Received: _____ First Discovered in Junk/Spam Folder: n/a _____ by _____ (initials)
Date

THE FOLLOWING ACTION IS BEING TAKEN IN RESPONSE TO YOUR REQUEST:

- YOUR REQUEST HAS BEEN:** GRANTED DENIED DENIED IN PART
Note: If your request has been denied or denied in part, the basis for the denial is listed on reverse.
- The period for responding to your request is being extended by as many as ten (10) additional business days. Your request will be granted, denied, or denied in part by: _____. This extension is necessary because:
- The Village needs to search for, collect, or examine or review a voluminous amount of separate and distinct public records pursuant to your request.
 - The Village needs to search and collect the requested public records from numerous departments, facilities, or other locations separate from the Village Clerk's office.
 - Other: _____
- All / Some of the public records you have requested are available on the Village's website at www.villageofarmada.org. Those records will not be provided unless you stipulate that you still wish to receive copies. Additional charges may apply for providing public records that are available on the website.
- Pursuant to your written and/or verbal consent:
- Your request has been modified: _____
 - You have agreed to pay the extra cost for single-sided copies.
 - You have agreed to pay a pre-set fee to obtain records and/or information as a Village service rather than utilize the FOIA process: \$ _____
 - You have agreed to pay the extra cost for overtime.
 - You have only requested an on-site inspection of public records.
Date/Time/Location of Inspection: _____
 - You have agreed that the deadline for filling your request will be extended to:
Date: _____

Description of any public records being withheld or information on a public record that was redacted (if any):

Approved By: _____ Dated: _____

Under Section 10 of the Michigan Freedom of Information Act, a person receiving written denial of the information requested has the right to submit to the Village Council a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial, or to commence an action in circuit court to compel disclosure of the public record within 180 days after a final determination to deny the request. If, in a circuit court action, the court finds that some or all of the information withheld by a public body was not exempt from disclosure, the party requesting such information may receive the requested records and may receive reasonable attorney fees, costs, or an appropriate portion thereof, and may also receive actual, compensatory, and/or punitive damages if a denial or delay is deemed to have been an arbitrary and capricious violation of the Act.

Under Section 10A of the Michigan Freedom of Information Act, you have a separate right to appeal a fee that you believe exceeds the amount permitted under the Village's written Procedures and Guidelines or Section 4 of the Act. You may submit a written appeal to the Village Council for a fee reduction or waiver that specifically states the word "appeal" and identifies how the fee exceeds the permitted amount. If you do not receive a response within 10 business days or your appeal is denied, you may then commence an action in the Macomb County Circuit Court for a fee reduction within 45 days. If you commence a civil action, the Village is not obligated to complete processing the request until the court resolves the fee dispute. If you prevail by receiving a reduction of 50% or more of the total fee, the court may award you an appropriate portion of reasonable attorneys' fees, costs, and disbursements, as well as damages if the Village arbitrarily and capriciously violated the Act.

The Village's specific procedures and guidelines, as well as a written summary and the standard form for detailed itemization of FOIA response fees, may be viewed at www.villageofarmada.org.

Police Department reason(s) for denial in whole or in part:

- FOIA Section 13(1)(a): The information requested is of a personal nature, and public disclosure would constitute a clearly unwarranted invasion of an individual's privacy.
- FOIA Section 13(1)(b): Investigating records compiled for law enforcement purposes, to the extent that disclosure as a public record would do any of the following:
 - Interfere with law enforcement proceedings.
 - Deprive a person of the right to a fair trial or impartial administrative adjudication.
 - Constitute an unwarranted invasion of personal privacy.
 - Disclose the identity of a confidential source
 - The record was compiled by a law enforcement agency in the course of a criminal investigation and it would disclose confidential information furnished only by a confidential source.
 - Disclose law enforcement investigative techniques or procedures.
 - Endanger the life or physical safety of law enforcement personnel.
- FOIA Section 13(1)(d): The requested information constitutes records or information specifically described and exempted from disclosure by state or federal statute.
- FOIA Section 13(1)(e): The requested information constitutes a public record or information described in Section 13 that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, and the considerations originally giving rise to the exempt nature of the public record remain applicable.
- FOIA Section 13(1)(g): The requested information constitutes information or records subject to the attorney-client privilege or other privilege recognized by statute or court rule.
- FOIA Section 13(1)(k): The requested information constitutes test questions and answers, scoring keys, or other examination instruments or data used to administer a license, public employment, or academic examination, and the public interest in disclosure does not outweigh the public interest in nondisclosure.
- FOIA Section 13(1)(l): The requested information constitutes medical, counseling, or psychological facts or evaluations concerning an individual and the individual's identity would be revealed by a disclosure of those facts or evaluation, including protected health information, as defined in 45 CFR 160.103.
- FOIA Section 13(1)(m): The requested information constitutes communications and notes within a public body or between public bodies of an advisory nature, covering other than purely factual materials and which are preliminary to a final agency determination of policy or action, and in this instance the public interest in encouraging frank communications between officials and employees of public bodies clearly outweighs the public interest in disclosure.
- FOIA Section 13(1)(n): The requested information constitutes records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety, and the public interest in disclosure under this act does not outweigh the public interest in nondisclosure in this particular instance.
- FOIA Section 13(1)(s): The public interest in disclosure does not outweigh the public interest in nondisclosure in this particular instance, and the requested information constitutes public records of a law enforcement agency, the release of which would do any of the following:
 - Identify or provide a means of identifying an informant.
 - Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
 - Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.
 - Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.
 - Disclose operational instructions for law enforcement officers or agents.
 - Reveal the contents of staff manuals provided for law enforcement officers or agents.
 - Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.
 - Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.
 - Disclose personnel records of law enforcement agencies.
 - Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.
- FOIA Section 13(1)(u): The requested information constitutes records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.
- FOIA Section 13(1)(v): The requested information constitutes records or information relating to a civil action in which the requesting party and the public body are parties.
- FOIA Section 13(1)(w): The requested information constitutes information or records that would disclose the social security number of any individual.
- FOIA Section 2(e): The requested information is not a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function from the time it was created.
- FOIA Section 1(2): The requested information does not serve the core purposes of FOIA because it is not information regarding the affairs of government, nor the official acts of those who represent the public as public officials and public employees, and/or the information does nothing to inform the public so that they may fully participate in the democratic process.
- FOIA Section 5(b): The public record does not exist under the name given in the request or by any other name reasonably known.
- Your request for electronic delivery cannot be honored due to state and/or federal restrictions requiring specific encryption levels.
- Other: _____

ATTACHMENT E

RESOLUTION ESTABLISHING FOIA FEE SCHEDULE

**VILLAGE OF ARMADA
MACOMB COUNTY, MICHIGAN**

A resolution establishing a fee schedule for processing requests for public records under the Michigan Freedom of Information Act (Act)

Pursuant to subsection 4(3) of the Act, being MCL 15.234(3), the Village Council shall establish and publish procedures and guidelines to be used in calculating the fees to be charged in connection with the processing of FOIA requests.

NOW, THEREFORE, BE IT RESOLVED, that the following schedule shall replace any previously-adopted FOIA fee schedules and shall be used in calculating the fees to be charged or reimbursed in connection with the processing of FOIA requests until such time as this resolution is amended or replaced:

Labor Fees for the Search	The hourly wage of the lowest paid public body employee capable of retrieving the information necessary to comply with a request
Labor Fees for Redaction	The hourly wage of the lowest-paid employee capable of separating and deleting exempt information from nonexempt information in the particular instance (or a contractor at no more than 6 times minimum wage)
Labor Fees for Duplication	The hourly wage of the lowest-paid employee capable of necessary duplication or publication in the particular instance
Media	The actual and most reasonably economical cost of the media
Mailing	The actual cost to the Village for sending the public records in a reasonably economical and justifiable manner, including supplies. Expedited shipping or insurance cannot be charged unless specifically stipulated by the requester, but the least expensive form of postal delivery confirmation may be utilized and charged by the Village
Copies	<p>The actual total incremental cost of necessary duplication or publication, not including labor, calculated as a total cost per sheet of paper not to exceed 10 cents per sheet of paper for copies of public records made on 8 ½ by 11 paper or 8 ½ by 14 paper.</p> <p>B&W: \$0.05/copy Color (if available): \$0.10/copy Different Sizes: Actual Cost</p> <p>Note: If the Village does not have the capability to make the requested copy, a private vendor will be utilized to duplicate the record(s) and the actual cost incurred by the Village will be charged</p>

MOVED BY:

SECONDED BY:

AYES:

NAYS:

ABSENT:

I, Michelle Poulos, Clerk of the Village of Armada, Macomb County, Michigan, do hereby certify that the above resolution is a true copy of the resolution adopted by the Village Council at a regular meeting held the 22ND day of June, 2015.