



Emmett Charter Township, Calhoun County

621 Cliff Street Battle Creek, MI 49014

Phone: (269)968-0241 Email: foia@emmett.org

Copies of the Township's FOIA procedures and guidelines, public summary, and forms are available on the Township website at <https://www.emmett.org/>. Copies of these documents also are available free-of-charge at the Clerk's office, located at 621 Cliff Street, Battle Creek, MI 49014.

FOIA Appeal Form—To Appeal a Denial of Records

Michigan Freedom of Information Act, Public Act 442 of 1976, as amended; MCL 15.231, et seq.

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

Record(s) Requested: *(Describe here or attach copy of original request.)*

Record(s) Denied: *(Describe here or on separate page. Please attach copy of denial.)*

APPEAL of FOIA Denial to the ROSS TOWNSHIP BOARD *(You may use this form or attach additional sheets of paper to this form.)*

An appeal of the denial described herein is made to the Township Board. The following reasons are identified as justification for reversal of the denial: _____

Requestor's Signature: _____ **Date:** _____

Appeals should be sent to the FOIA Coordinator, 621 Cliff Street Battle Creek, MI 49014 or to foia@emmett.org. The township must provide a response within 10 business days after receiving this appeal, which may be a determination or a 10 business day extension. Please be aware MCL 15.240, as amended, provides that a board is not considered to have received a written appeal under MCL 15.240(2) until the first regularly scheduled meeting of that board following submission of the written appeal under MCL 15.240(1)(a).

Office Use Only

Receipt:

Date Received: _____

Check if received via: Email Fax Other Electronic Method

Date delivered to junk/spam folder: _____

Date discovered in junk/spam folder: _____

Party who discovered in junk/spam folder: _____

Request for Discount: Indigence

Affidavit Received Eligible for Discount Ineligible for Discount

Not Applicable. Reason _____

Request for Discount: Nonprofit Organization

Documentation of State Designation Received Eligible for Discount Ineligible for Discount

Not Applicable. Reason _____

Requests discounted for same party within previous 12-months _____

FREEDOM OF INFORMATION ACT (EXCERPT)

Act 442 of 1976, as amended

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

Sec. 10.

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

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

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

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

(a) Reverse the disclosure denial.

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

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

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

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

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

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

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

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

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