



# MILFORD POLICE DEPARTMENT

Request Number: \_\_\_\_\_

Date Received: \_\_\_\_\_

Denial Appeal Form

1100 ATLANTIC ST, MILFORD MI 48381 • PHONE (248) 684-1815 • FAX (248) 685-0543

## FOIA APPEAL FORM - TO APPEAL A DENIAL OF RECORDS

MICHIGAN FREEDOM OF INFORMATION ACT, PUBLIC ACT 442 OF 1976, MCL 15.231, ET SEQ

Request No (for records use): \_\_\_\_\_

Date Received (for records use): \_\_\_\_\_

Name of Individual Making Request:	Date submitting request:
StreetAddress:	City:
State/Zip:	Phone Number:
Firm/Organization:	Entity Representing if applicable:
Claim/File/Reference Number, if applicable:	Email:

Request for:  Copy  Certified Copy  Record Inspection + Subscription to record issues on regular basis

Delivery Method:  Will Pick Up  Will make own copies onsite  Mail to address above

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

\_\_\_\_\_

### Reason(s) for Appeal:

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

\_\_\_\_\_

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

### Milford Police Department/Village Response:

The Milford Police Department (Village of Milford) must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

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

Unusual circumstances warranting extension:

\_\_\_\_\_

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

### Milford Police Department/Village Determination:

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

The following previously denied records will be released:

### Notice of Requestors right to seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the Village Council or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from the disclosure. If, after judicial review, the court determines that the Village has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorney's fees and damages as provided in MCL 15.240

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

## FREEDOM OF INFORMATION ACT (EXCERPT)

### Act 442 of 1976

**15.240. Amended options by requesting person; appeal; actions; by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action of appeal for hearing, trial, or argument; attorney's 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 the request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do one 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 one notice of extension for a particular written appeal.

(3) A Council 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 Council 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 controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of the 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 or \$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 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