

NORTH KENT SEWER AUTHORITY
4775 COIT AVENUE NE, GRAND RAPIDS, MI 49525

Summary of Freedom of Information Act Procedures and Guidelines
(the “Procedures”)

The Michigan Freedom of Information Act, Public Act 442 of 1996 (“FOIA” or the “Act”), provides for disclosure of public records that are not exempt from disclosure. To fulfill this mandate, the Board of Trustees of the North Kent Sewer Authority (“NKSA”) adopted “Freedom of Information Act Procedures and Guidelines” (the “Procedures”) for handling FOIA requests. This document summarizes the NKSA’s Procedures in accordance with FOIA.

I. Submitting a FOIA Request

You must submit a request for public records in writing to the FOIA Coordinator. You may request either (a) to receive a copy of NKSA records, or (b) to review NKSA records.

You may submit the FOIA request for records in person or by mail to the NKSA Office, 4775 Coit Avenue NE, Grand Rapids, MI 49525, or by e-mail to jschoolcraft@nkسا.us. Requests submitted in person or by mail are deemed received as of the date of receipt. Requests submitted to the NKSA via electronic means are deemed received by the FOIA Coordinator one business day after the date the electronic transmission is made.

II. NKSA’s Response to a FOIA Request

Once the NKSA receives your FOIA request, the NKSA will respond to your request within five business days, unless the NKSA extends the period to respond to the request by not more than 10 business days, in addition to the original five business days.

In response to a FOIA request, the NKSA may: (1) grant the request and provide either a copy of the requested public record or the opportunity to review the record, in accordance with your request; (2) deny the request if no such record exists or the record is exempt pursuant to one of the exemptions under the Act that are applicable to the NKSA; or (3) grant the request in part and deny the request in part.

If the NKSA issues a 10-business-day extension to respond to the FOIA request, the NKSA’s written response to a FOIA request will include an estimate of when the NKSA expects to provide the requested records.

Please note that FOIA does not require the NKSA to make a compilation, summary or report of public records or other information.

III. Inspecting NKSA Public Records

You may request to inspect NKSA public records. If you make such a request, the NKSA will make facilities available to inspect the requested records during the NKSA’s normal business hours and when the records can reasonably be made available. You must submit a

request form describing the requested documents prior to the NKSA allowing the inspection of the records.

You cannot write on, mark or alter any original NKSA records that you are reviewing. You will be allowed to have only an erasable pencil with you, if you wish to take notes. No pens or indelible writing instruments are allowed. A NKSA official will be present during your inspection of NKSA records if original records are involved; you may be charged a fee to defray the NKSA's cost of the monitoring service to protect the records from loss, unauthorized alteration, mutilation, or destruction. Original records cannot be removed from the location provided for inspection and note taking.

IV. Requesting Copies of NKSA Public Records

You may request copies of NKSA public records. The NKSA will review the available records and provide you with copies of the records unless the records do not exist, are not in possession of the NKSA, or exempt from disclosure under FOIA.

V. Calculation and Payment of Fees; Deposit

Under FOIA, the NKSA may charge a fee for providing you with a copy of a public record, including labor costs. Prior to responding to a request, the NKSA will provide you with a written estimate of the applicable fees. The NKSA may require the payment of a deposit or, in certain circumstances, may waive payment of the fee.

A. Calculation of Fee

The NKSA will charge you a fee for searching, reviewing, redacting, copying and mailing requested public records. The fee will be limited to actual mailing costs, and to the actual incremental cost of duplication, including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt material pursuant to Section 14 of FOIA. The NKSA will mail the available requested records to you upon payment of the applicable fees. The fees charged by the NKSA for responding to your request may include:

- A fee for the NKSA's labor costs directly associated with (1) making copies (including paper or digital copies), (2) searching for, locating, and examining the requested records if this will require more than 30 minutes, and (3) the necessary review of and separation and deletion of exempt material from nonexempt material. You will not be charged for the redaction of documents if the NKSA previously redacted the public record in question and the redacted version is still in the NKSA's possession.
- The actual cost of mailing for sending the records to you. The NKSA will not send documents via overnight delivery service or expedited shipping (or obtain shipping insurance on such mailing) unless you specifically request such services in writing and agree to pay for such costs.
- A copy charge of 10 cents per 8 1/2" x 11" or 8 1/2" x 14" sheet of paper.

- The actual costs to copy photographs, audio or videotapes, microforms, maps or plans including any costs incurred to have a third-party make such copies. If a NKSA official or employee is required to deliver and/or pick up the public records and/or copies of public records, you will be charged for the labor hours (calculated in accordance with the Procedures), involved and applicable mileage (at the then-current IRS mileage reimbursement rate).

For labor costs to comply with a request, the NKSA will charge the hourly wage of its lowest-paid employee capable of performing the necessary task regardless of whether that person is available or who actually performs the labor. The labor charges will be billed in increments of 15 minutes or more and all partial time increments will be rounded downward. The labor charge will include an amount equal to one-half of the applicable hourly wage to cover (or partially cover) the cost of the fringe benefits (if any) for the lowest-paid employee; provided, however, that such amount will not exceed the actual costs of the fringe benefits.

The review and separation of exempt from non-exempt information may be performed by a NKSA official or employee or, if necessary, outside legal counsel. For services performed by outside legal counsel, the NKSA may charge the legal counsel's time; the charge will not exceed an amount equal to six times the then-current state minimum hourly wage rate. The charges for such services will be billed in increments of 15 minutes or more and all partial time increments will be rounded downward.

B. Fee Waiver

The NKSA may waive all or a portion of the fees for the search and copying of records if the NKSA determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request by either: (a) person submits an affidavit stating that they are indigent and receiving specific public assistance, or (b) certain nonprofit agencies operating under the Developmental Disabilities Assistance and Bill of Rights Act.

Under the Procedures, you may be ineligible for a fee reduction or waiver if: (a) you previously received discounted copies of public records from the NKSA twice during the calendar year; (b) you are making the records request in conjunction with outside parties who are offering or providing payment or other remuneration to you to make the request; or (c) you are a specific type of nonprofit corporation (as provided in FOIA and the Procedures).

C. Deposit

If it is anticipated that a charge will exceed \$50.00, you may be required to pay a good-faith deposit prior to the NKSA fulfilling the request for the records, but the deposit will not exceed one-half of the total anticipated fee. The NKSA's time to respond to the request is suspended until the deposit is received. In certain circumstances, the NKSA may require payment of a deposit equal to 100% of the estimated charge for fulfilling your request for records, if you previously failed to pay the total amount due from a prior FOIA request to the NKSA.

VI. Rights to Appeal

You can appeal decisions made with respect to the public records that you requested, if the request was denied or denied in part, or the amount of the calculated fee for responding to your request. An appeal from a determination by the FOIA Coordinator or from a decision of the NKSA Board may be taken to the Circuit Court.

A. Appeal of Denial of Public Records (in whole or in part)

You have the right to submit to the NKSA Board, a written appeal that specifically states the word “appeal” and identifies the reason or reasons that you assert in support of reversal of the failure of disclosure of the public records that were not disclosed. In the alternative, you have the right to seek judicial review of the denial or nondisclosure.

Under Section 10 of FOIA, you have the right to receive attorney fees and damages, if, after judicial review, the Circuit Court determines that the NKSA has not complied with Section 5 of FOIA and if the court orders disclosure of all or a portion of a public record that had not been disclosed to you by the NKSA.

B. Appeal of Calculation of Fee

You may appeal the amount of a fee or requested deposit to the NKSA Board or the Circuit Court if that fee exceeds the amount permitted under these Procedures and FOIA. An appeal of the amount of the fee to the NKSA Board must specifically include the word “appeal” and identify how the required fee exceeds the amount permitted under the Procedures or the Act. If you file a fee appeal with the Circuit Court, the NKSA will not complete the processing of the request for the public record at issue until the court resolves the fee dispute.

Within 10 business days after receiving a written appeal of the fee, the NKSA Board is required to: (1) waive the fee; or (2) reduce the fee and provide written notice as to the basis for the remaining fee; or (3) uphold the fee and provide written notice as to the basis for the fee; or (4) issue a notice extending for not more than 10 business days the period during which the NKSA Board will respond to the appeal (the notice will include the reason or reasons why the extension is necessary).

Any appeal will be deemed received as of the date of the first regularly scheduled meeting of the NKSA Board following submission of the written appeal.

VII. Additional Information; Revisions to Summary and Procedures

Additional information may be found in the NKSA’s Procedures, which may be obtained by writing or visiting the NKSA Office, 4775 Coit Avenue NE, Grand Rapids, MI 49525, at no charge.

This Summary and the Procedures may also be found on the NKSA’s website at www.nksa.us.

This Summary and the Procedures may be modified from time to time by the NKSA Board and without notice.

This Summary is effective as of February 2, 2017.