

**Clay Township
Freedom of Information Act Procedures and Guidelines**

Effective Date: July 1, 2015

A. Appointment of FOIA Coordinator. In accordance with Section 6 of the Freedom of Information Act (FOIA), MCL 15.236, the Township has appointed a FOIA Coordinator. The name of the FOIA Coordinator are available from the Township Clerk's Office.

B. Submission of FOIA Request. FOIA requests to the Clay Township may be submitted by email, fax or mail to:

Email: Clerk@claytownship.org
Fax: 810-794-1964
Mail: Clay Township
Attn: FOIA Coordinator
P.O. Box 429
Clay Township, MI 48001

Requests should include name, phone number, and mailing address of the requester.

C. Immediately Forward FOIA Request. Any employee of the Department who receives a written request for a public record must immediately forward that request to the FOIA Coordinator at Clerk@claytownship.org. If a Department employee receives an electronic written request for a public record that is delivered to a spam or junk-mail folder, the employee must record the date and time the written request was delivered to the spam or junk-mail folder and date and time the employee first became aware of the written request. The employee must forward those dates and times to the FOIA Coordinator with the written request.

D. Request Response Time. The Department may extend the time for responding by an additional ten business days by notifying the requesting person in writing of the reason for the extension and the new due date (MCL 15.235(2)(d) and (6)).

E. Response to a FOIA Request. Only the Department's FOIA Coordinator will respond to FOIA requests. The department will provide copies of these procedures and guidelines and a summary of these procedures and guidelines with each written response or provide a link to an on line version of these documents. If a request is denied, in full or in part, the Department will provide the requester an explanation of the basis of the denial under the FOIA, and give notice to the requester of his or her remedial rights (MCL 15.235(4)).

F. Notification of FOIA Request. Upon receipt of a FOIA request, the FOIA Coordinator will contact the work site(s) that might possess records responsive to the FOIA request by email or fax. The contact will include a date the documents are due to the FOIA Coordinator.

G. Work Site Response to FOIA Coordinator. As soon as possible, but not later than the date provided by the FOIA Coordinator, the work site's response is due to the FOIA Coordinator. If no documents responsive to the request exist, the work site must notify the FOIA Coordinator that no records will be sent.

H. Assessment of Fees for a FOIA Request. The FOIA permits the Department to charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material, but only if the failure to charge a fee would result in unreasonably high costs to the Department because of the nature of the request in the particular instance, and the Department identifies these unreasonably high costs (MCL 15.243(1) and (3)).

The following fee guidelines for calculating labor and material costs incurred in processing FOIA requests are established pursuant to MCL 15.234(3):

1. Fees will be uniform and not dependent upon the identity of the requesting person.
2. Fees will be itemized and will include:
 - A. Labor costs for the search, location, and examination of public records which will be calculated using the hourly wage of the Department's lowest paid employee capable of conducting the search, location, and examination, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Department's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - B. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material which will be calculated using the hourly wage of the Department's lowest paid employee capable of conducting the review and separation and deletion of exempt from nonexempt material, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Department's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - C. Non-paper physical media costs will be calculated using the actual and most reasonably economical cost of computer discs, computer tapes, and other digital and similar media provided by the Department.
 - D. Duplication and publication costs for paper copies will be calculated using the actual total incremental cost of necessary duplication or publication of a public record, not including labor. The actual and incremental cost, calculated per sheet, shall be charged and will not exceed ten cents per sheet of paper for letter or legal size paper. The Department shall use the most economical means available for making copies, including the use of double-sided printing, if cost-saving and available.
 - E. Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on non-paper physical media or through electronic means, will be calculated using the hourly wage of the employee capable of duplicating or publishing the public records, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of fifteen minute with all partial increments rounded down. The hourly wage will be based on the Department's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - F. Actual costs of mailing using a reasonably economical and justifiable manner.
3. No Department employee shall stipulate to work overtime or include overtime wages in the labor costs described in these procedures and guidelines.
4. If a requester submits an affidavit of indigence, the first \$20.00 of a fee will be waived. A requesting person must include a statement that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration. Other than \$20.00 for cases

of indigence, no Department employee shall waive a fee or any part of a fee without authorization from the FOIA Coordinator.

5. Labor costs for monitoring an inspection of original records will be calculated using the hourly wage of the Department's lowest paid employee capable of monitoring the inspection. The hourly wage will be based on the Department's payroll records for the applicable fiscal year.

Note: Section 3(3) of the FOIA, MCL 15.233(3), provides, in pertinent part, that "[a] public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction."

6. If a statute authorizes the sale or production of public records to the public for a specified fee or if a fee for production of public records is otherwise set by statute, the Department will charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.

I. Deposit Requirements. If the Department estimates a fee to process a FOIA request greater than \$50.00, the Department will require a good-faith deposit from the requestor before processing the request. The deposit shall not exceed 1/2 of the total estimated fee. Any written notice containing a request for a deposit shall also contain a best efforts estimate by the Department regarding the time frame after a deposit is received that it will take the Department to provide the public records to the requestor. The time frame estimate is not binding upon the Department, but the Department shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under Section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance.

J. Appeals of Fees and Disclosure Determinations. If the Department charges a fee or denies all or part of a request, the requestor may submit to the head of the Department a written appeal that specifically states the word "appeal" and identifies the basis for which the fee should be reduced or the disclosure determination should be reversed.