

**VEVAY TOWNSHIP
FOIA PROCEDURES & GUIDELINES**

A. Requests

1. All “persons,” except those persons incarcerated in state or local correctional facilities, are entitled to submit a FOIA request to the township. A “person” is defined for purposes of the FOIA to mean “an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity.”
2. A FOIA request is a *written* request to inspect, copy, or receive copies of a public record. A request must describe the public record in sufficient detail to enable the township to find the requested record. The township suggests that requestors use the sample Request Form appended as Attachment A.
3. FOIA requests must be in writing. If, however, a person makes an oral request for information that is available on the township’s website, and if the employee to whom the request is directed knows that the information is available on the township’s website, that employee must inform the requesting person that the information is available on the township’s website.
4. The township’s FOIA Coordinator is responsible to process requests to inspect, copy, or receive copies of public records. FOIA requests should be sent to the township’s FOIA Coordinator.
 - FOIA requests can be sent via U.S. Mail to:

JoAnne Kean
FOIA Coordinator
780 Eden Road
Mason, Michigan 48854

- FOIA requests sent via email should be sent to: [EMAIL ADDRESS].
- FOIA requests sent via fax should be faxed to: [FAX NUMBER].

If an employee of the township receives a written request to inspect, copy, or receive copies of a public record, the employee should promptly forward the request to the township’s FOIA Coordinator. A requestor is not required to use the township’s sample Request Form, or to include the word “FOIA” in the request. Therefore, all written requests to inspect, copy, or receive copies of records should be promptly forwarded to the FOIA Coordinator for review.

5. The FOIA Coordinator shall keep a copy of all written requests for public records received by the township on file for a period of at least one year.

6. A person may subscribe to future issuances of public records created, issued or disseminated *on a regular basis*, such as notices or agendas of board meetings. In all other respects, if the requested public record does not exist as of the date requested, the township has no obligation under the FOIA to create the requested record or to provide a copy if created at a later date. A subscription is valid for up to 6 months and may be renewed by the subscriber.
7. The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record to the requestor.

B. Responses.

1. Unless otherwise agreed to in writing by the person making the request, the township must respond to a written request under the FOIA within 5 business days (excluding weekends and legal holidays) after the township receives the request by doing one of the following:
 - a. Granting the request;
 - b. Sending written notice denying the request;
 - c. Granting the request in part and issuing a written notice denying the request in part; or
 - d. Issuing a notice extending for not more than 10 business days the period during which the township will respond to the request. The township shall not issue more than 1 notice of extension for a particular request.
2. If a request is denied in whole or in part, the township must include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requestor or by another name reasonably known to the township. A sample Certificate of Non-Existence of Public Record is appended as Attachment B.
 - a. Exemptions to disclosure are set forth in Section 13 of the FOIA, MCL 15.243, which is available on the Michigan Legislature's website at www.legislature.mi.gov.
 - b. If a public record or information is separated and exempt from disclosure (redacted), the township will describe generally the material exempt unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.
3. The date for responding to a FOIA request depends upon the manner in which the request was delivered. A request sent by mail or delivered by hand is received for purposes of the FOIA on the day it arrives at the township. A request sent by e-mail,

- fax, or other electronic means is received for purposes of the FOIA 1 business day after the date on which it was electronically transmitted. If a request is sent by email and is diverted to the township spam or junk mail folder, the request is not received until 1 day after the date it is discovered in the spam or junk mail folder. The FOIA Coordinator shall include in the township's records both the time that a written request was delivered to its spam or junk-mail folder and the time that the township first became aware of that request. The township shall review the FOIA Coordinator's spam or junk mail folder at least once every 30 days.
4. If a request is fully granted, the township will provide copies of, or an opportunity to inspect, all the public records that were requested, upon payment of the appropriate fee (if any). No pages will be left out, and nothing will be redacted.
 5. The township will provide reasonable facilities for a requestor to inspect non-exempt public records. The facilities will be available during the township's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which records may be inspected to protect the township's records from loss, alteration, mutilation, or destruction, or to prevent undue interference with the township's normal operations.
 6. The FOIA identifies numerous specific exemptions to disclosure. If a request includes information that is exempt from disclosure, the township will provide a written response and list the reason(s) why the record(s) or portions of records will not be disclosed. The township will include a link to, or a copy of, these Written Procedures and Guidelines (including the Public Summary and Attachments) with each denial.
 7. If a request is partially denied, it means that some records or parts of records will be disclosed, but some records or parts of records will not be disclosed. The township will provide copies of, or an opportunity to inspect, the non-exempt records, but exempt information (which may consist of entire documents, pages, or information on a page) may be withheld or redacted. The township will include in the written notice of denial-in-part an explanation of the basis for the denial-in-part and, if applicable, a certificate that one or more of the public records does not exist under the name given by the requestor or by another name reasonably known to the township. The township will include a link to, or copy of, these Written Procedures and Guidelines (including the Public Summary and Attachments) with each denial.
 8. Failure of the township to respond to a FOIA request within the prescribed timelines constitutes denial of the request. The fee that the township is permitted to charge will be reduced by 5% per day, up to a 50% reduction, if the failure to timely respond was willful or intentional, or if the request included language described in the FOIA as readily conveying a FOIA request. (See Section II. D, Fees).
 9. The FOIA does not require the township to create any records, or to make compilations, summaries, or reports of existing records. If a request seeks records that do not exist, the township will certify that no records responsive to the request exist

under the name or description provided in the request or another name known to the township. (See sample Certificate of Non-Existence of Public Record appended as Attachment B).

10. If a request asks for information that is available on the township's website, the township will notify the requestor in its response where the records may be found. If a requestor seeks paper copies of information available on the website, the township may charge the fees noted below and on the detailed fee itemization form, except that there will be no charge for separating exempt from nonexempt material.
11. In lieu of paper copies, the requestor may stipulate that the township provide non-exempt public records on non-paper physical media, by electronic mail, or other electronic means. The township is not required to produce non-exempt public records on non-paper physical media if the township lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The township is not required to use non-paper physical media *provided by the requestor* and, to safeguard the township's information technology infrastructure, shall not do so.

C. Deposit Requirements

1. Where the township estimates that the fee authorized under the FOIA and these FOIA Procedures and Guidelines for responding to a request will exceed Fifty Dollars (\$50.00), the township may require a good-faith deposit from the requestor before providing the requested records. A good-faith deposit shall not exceed one-half (1/2) of the total estimated fee and shall include a detailed itemization of estimated fee amounts. The FOIA Coordinator shall provide the requestor with a detailed itemization of allowable fees estimated to be incurred by the township to process the request. The township shall include with its request for good-faith deposit a best efforts estimate of the time frame within which the township will provide the requested public records. The timeframe estimate is not binding on the township, but the estimate will be made in good faith and the township will strive to be reasonably accurate.
2. If a requestor previously requested public records from the township, and if the township made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the township may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

D. Fees

1. A fee shall not be charged for the cost to search, examine, review, and delete/separate/redact exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the township. In determining whether such costs are "unreasonably high," the township will consider, on a case-by-case

basis, the estimated costs given the volume and complexity of the request relative to the usual or typical costs incurred by the township in responding to FOIA requests.

2. Fees are calculated using the detailed fee itemization form appended to these Guidelines and Procedures as Attachment C. The township charges the following fees:
 - a. *Labor costs incurred for searching for, locating, and examining public records.* Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of searching for, locating, and examining the public records. No overtime will be charged unless requested by the requestor, approved by the township, and included on the fee itemization form. The hourly rate of the lowest-paid employee capable of searching for, locating, and examining particular records may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to search for, locate, or examine the requested record. All charges will be noted on the fee itemization form.
 - b. *Labor costs for separating and deleting exempt information from non-exempt information.* Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of separating and deleting material that is exempt from disclosure from information that is non-exempt from disclosure. No overtime will be charged unless requested by the requestor, approved by the township, and included on the fee itemization form. The hourly rate of the lowest-paid employee capable of separating and deleting exempt information from non-exempt information may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to separate and redact exempt information from non-exempt information. If the township FOIA Coordinator determines on a case-by-case basis that no employee of the township is capable of separating and deleting exempt from nonexempt material, the township may engage a contracted services provider and charge labor costs. Such labor costs shall be calculated in 15-minute increments (rounded down) and the hourly rate shall not exceed 6 times the state minimum wage. All charges will be noted on the fee itemization form.
 - c. *Costs for non-paper physical media.* A requestor may stipulate that records be produced on non-paper physical media (e.g., on a flash drive or CD). If the township has the technological capabilities to comply with the request for production on non-paper physical media, the township may charge the actual and most reasonably economical cost of the requested non-paper physical media and the cost of non-paper physical media shall be included on the fee itemization form.
 - d. *Actual cost of duplication for paper records.* The township will charge the actual cost of duplication (not to exceed 10 cents per sheet) for 8-1/2 by 11-inch sheets of paper or 8-1/2 by 14-inch sheets of paper. The actual cost of duplication will be

charged for non-standard-sized sheets of paper and may exceed 10 cents per sheet. The township shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

- e. *Actual labor costs for duplication or publication.* The township's charges for duplication or publication will not exceed the hourly rate of the lowest-paid employee capable of duplicating or publishing the records. The hourly rate of the lowest-paid employee capable of duplicating or publishing records may vary depending on the nature of the records sought. Duplication or publication fees are calculated in 15 minute increments (rounded down). All charges will be noted on the fee itemization form.
 - f. *Postal delivery charges.* The township may charge the costs of the least expensive form of postal delivery. If a requestor asks for expedited mailing, and if the township agrees to provide expedited mailing, the actual costs of the expedited mailing may be charged and must be included on the fee itemization form.
 - g. *Fringe benefits.* The township may add to the labor charges described above the actual cost of the public employee's fringe benefits, up to 50% of the labor costs. Fringe benefits must be noted on the fee itemization form.
 - h. *Overtime wages.* No overtime will be charged unless requested by the requestor, approved by the township, and included on the fee itemization form.
3. Each of the fee components described above must be specifically listed on the fee itemization form. A completed copy of the fee itemization form will be included with the response to the request. A copy of the fee itemization form is appended to these Written Procedures and Guidelines as Attachment C.
 4. **Fee Reductions.** If the FOIA Coordinator does not respond to a written request within the timeframes required by the FOIA, the township will reduce the charges for labor costs otherwise permitted under the FOIA and these Procedure and Guidelines by 5% for each day the township exceeds the time permitted for a response to the request, up to a maximum 50% reduction, if either of the following applies:
 - The late response was willful and intentional.
 - The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy," or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.

If a fee reduction is required, the township will fully note the fee reduction on the detailed itemization of fees (Attachment C).

5. **Payment.** The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.
6. **Fee Waivers.** A search for a public record may be conducted, or copies of public records may be furnished, without charge or at a reduced charge if the township determines, in its discretion, that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.
7. **Discounts.** Under the following circumstances, a public record search shall be made by the township and a copy of a non-exempt public record shall be furnished without charge for the first \$20.00 of the fee:
 - a. If an individual who is entitled to information under the FOIA:
 - submits an affidavit stating that the individual is receiving specific public assistance or is unable to pay the fee because of indigence and stating that the individual is not making the request in conjunction with outside parties in exchange for payment or other remuneration; and
 - that individual has not previously received discounted copies of public records from the township twice during the same calendar year.
 - b. If a nonprofit corporation formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, submits a request that meets all of the following requirements:
 - Is made directly on behalf of the organization or its clients;
 - Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and
 - Is accompanied by documentation of its designation by the state, if requested by the township.

E. Appeals

A requestor may appeal any denial of records or any fee charged for public records.

1. **Challenge to Record Denial.** If the township denies a request for records, the requestor may either:
 - Appeal to the township’s Board of Trustees; or
 - Commence an action in the circuit court in Ingham County within 180 days of the denial.
- a. If the requestor appeals to the Board of Trustees, the appeal must specifically state the word “appeal” and state the reason(s) that the denial should be reversed. The following rules apply to record denial appeals to the governing board:
 - i. An appeal is not “received” until the first regularly scheduled board meeting after the appeal is submitted.
 - ii. Within 10 business days after receiving the appeal, the Board will do one of the following:
 - A. Reverse the denial;
 - B. Issue written notice upholding the denial;
 - C. Reverse the denial in part and issue written notice upholding the denial, in part; or
 - D. Issue written notice extending the time for response by not more than 10 business days.
 - iii. If the Board fails to respond in a timely manner to the written appeal, or upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requestor may seek judicial review by commencing a civil action in circuit court.
- b. A requestor is not required to submit an appeal to the Board before commencing a civil action in circuit court to challenge a disclosure denial. If a circuit court determines that the requested record is not exempt from disclosure, the court will order the township to cease withholding or to produce all or a portion of the public record determined to have been wrongfully withheld. If the court determines that a disclosure denial was arbitrary and capricious, willful and intentional, or made in bad faith, the court will order that the township pay a civil fine to the state and punitive damages to the requestor. 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 in the circuit court, the court shall also require that the township pay the requestor’s reasonable attorneys’ fees, costs, and disbursements. If the requestor or the township *prevails in part*, the court may, in

its discretion, award the township all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

2. **Challenge to Fee.** If the township requires a fee (defined to include a deposit) that requestor believes exceeds the amount permitted under the FOIA or these publicly available Procedures and Guidelines, the requesting person may, within 45 days after receiving notice of the required fee, commence an action in the circuit court for the county in which the public record or the township's office is located.
 - a. If a court determines that the fee exceeds the amount permitted under the FOIA or these Procedures and Guidelines, the court will reduce the fee to the permissible amount (if any).
 - b. If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.
 - c. If the court determines that the township arbitrarily and capriciously violated FOIA by charging an excessive fee, or acted in bad faith, the court will order that the township pay a civil fine to the state and punitive damages to the requestor.

F. Questions

Any questions about these Written Procedures and Guidelines should be directed to the township's FOIA Coordinator.

G. Attachments

1. Sample FOIA Request Form
2. Sample Certificate of Non-Existence of Public Record
3. Standard Form for Detailed Itemization of Fee Amounts