

Davison Township - FOIA Procedures & Guidelines

Preamble: Statement of Principles

It is the policy of Davison Township (Township) that all persons, except those incarcerated, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they fully participate in the democratic process.

The Township's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

The Township acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The Township acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA to ensure the effective operation of government and to protect the privacy of individuals. Davison Township will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The Township's policy is to disclose public records consistent with and in compliance with State law.

The Township Board has established the following written procedures and guidelines to implement the FOIA and will create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary will be written in a manner to be easily understood by the general public.

Section 1: General Policies

The Township Board, acting pursuant to the authority at MCL 15.236, designates the Township Treasurer as the FOIA Coordinator. He or she is authorized to designate other Township staff to act on his or her behalf to accept and process written requests for the Township's public records and approve denials. The Chief of Police or his designee will act as the FOIA Coordinator for the Police Department. If a request for a public record is received by fax or electronic file, the request is deemed to have been received on the following business day.

If a request is sent by electronic file and delivered to a Township spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA

log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

The FOIA Coordinator shall review Township spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with Township Information Technology staff to develop administrative rules for handling spam and junk-mail to protect Township systems from computer attacks which may be imbedded in an electronic FOIA request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The Township is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other Township staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all requests for public records received by the Township for a period of one year.

A copy of this Procedures and Guidelines document and the Township's Written Public Summary must be publicly available by providing free copies both in the Township's response to a written request and upon request by visitors at the Township's office.

This Procedures and Guidelines document and the Township's Written Public Summary will be maintained on the Township's website at: www.davisontwp-mi.gov, so a link to those documents will be provided in lieu of providing paper copies of those documents.

Section 2: Requesting a Public Record

To obtain a copy of a public record, you shall make a written request. You may submit your request in person, by mail or email.

Mail: Davison Township 1280 N. Irish Road, Davison, Michigan 48423

Email: thowell@davisontwp-mi.org

Davison Township Police

Mail: Davison Township Police 1280 N. Irish Road, Davison, Michigan 48423

- Please do not send more than one copy of your request, regardless of request method used (e.g. do not use the public portal and send by mail the same request).
- No specific form to submit a written request is required. However, a FOIA Request Form is available on the Township's website at www.davison township-mi.gov
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed, or retained by the Township may be submitted on the Township's FOIA Request Form, in any other form of writing (letter, or fax, etc.).
- A written request must sufficiently describe a public record to enable Township personnel to identify and find the requested public record.
- Requests must include a name, phone number or email address, and mailing address that meets United States Postal Service addressing standards. MCL 15.234(2)(a).
- Upon the receipt of the request for public record(s) it shall be promptly forwarded to the FOIA Coordinator for processing.
- A person may request that public records be provided on non-paper physical media, or otherwise provided to him or her in lieu of paper copies. The Township will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.
- A person may subscribe to future issues of public records that are created, issued or disseminated by the Township on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.
- A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

Section 3: Processing a Request

Unless otherwise agreed to in writing by the person making the request, the Township will issue a response within 5 business days of receipt of a FOIA request. If a request is received by fax, or other electronic transmission, the request is deemed to have been received on the following business day.

The Township will respond to a request in one of the following ways:

- Grant the request,

- Deny the request,
- Grant the request in part and deny in part, or
- Take one (1) ten (10) business day extension to respond for a total of no more than 15 business days.
- Issue a written notice indicating that the public record requested is available at no charge on the Township's website

When a request is granted:

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available.

The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If the Township estimated the fee to process your FOIA to exceed \$50, the Township will require that you provide a good-faith deposit in the amount of 50% of the total estimated fee. The deposit will not exceed half of the total estimated fee.

When the Township requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.

When a request is denied or denied in part:

If the request is denied or denied in part, the FOIA Coordinator will inform you of the basis for its denial in a written notice. Reasons the request may be denied include:

- You did not describe the records you requested well enough and the Township cannot determine what you are asking for;
- The Township has determined that it does not have records that respond to your request in its possession; or
- The records you have requested are exempt from public disclosure.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient,

seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

Requests to inspect public records:

The Township shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the way records may be viewed so as to protect Township records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal Township operations.

Upon receiving a written request to inspect township records, the township shall furnish the requesting person with a reasonable opportunity and reasonable facilities for inspection and examination of its public records.

A person shall be allowed to inspect public records during usual business hours, not more than four hours per day. The public does not have unlimited access to township offices or facilities, and a person may be required to inspect records at a specified counter or table, and in view of township personnel.

Township officials, appointees, staff or consultants/contractors assisting with inspection of public records shall inform any person inspecting records that only pencils, and no pens or ink, may be used to take notes.

In coordination with the official responsible for the records, the FOIA coordinator shall determine on a case-by-case basis when the township will provide copies of original records, to allow for blacking out exempt information, to protect old and delicate original records, or because the original record is a digital file or database not available for public inspection.

A person cannot remove books, records, or files from the place the township has provided for the inspection.

No documents shall be removed from the office of the custodian of those documents without permission of that custodian, except by court order, subpoena or for audit purposes. The official shall be given a receipt listing the records being removed. Documents may be removed from the office of the custodian of those documents with permission of that custodian to accommodate public inspection of those documents.

In coordination with the official responsible for the records, the FOIA coordinator will determine (by policy, on a case-by case basis, or both) when the township will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection. A fee will be charged for copies made to enable public inspection of records, according to the township's FOIA policy.

Certify a Copy:

Michigan notaries cannot make a statement on a copy of a document that it is a true copy of the original document. The notary can only acknowledge the signature of the person making the original or true copy statement on the document. In Michigan, only the issuer or holder of the document can certify to the authenticity of a document and that it is an original or true copy.

Section 4: Fee Deposits

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.

If the Township receives a request from a person who has not paid the Township for copies of public records made in fulfillment of a previously granted written request, the Township will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when all the following conditions exist:

- The final fee for the prior written request is not more than 105% of the estimated fee;
- The public records made available contained the information sought in the prior written request and remain in the Township's possession;
- The public records were made available to the individual, subject to payment, within the time frame estimated by the Township to provide the records;
- Ninety (90) days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- The individual is unable to show proof of prior payment to the Township; and
- The FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:

- The person making the request is able to show proof of prior payment in full to the Township;
- The Township is subsequently paid in full for the applicable prior written request; or
- Three hundred sixty-five (365) days have passed since the person made the request for which full payment was not remitted to the Township.

If a deposit is not received by the Township within 48 days from the date that the notice of deposit requirement is sent, and if the requesting person has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requesting person and the Township is no longer required to fulfill the request.

Any written notice containing a notice of deposit shall also contain a best effort estimate by the department regarding the timeframe, after a deposit is received, that it will take the department to provide the public records. The timeframe estimate is not binding upon the department, but the department will 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 1 of the FOIA, MCL 15.34, Sec 4 (8).

Section 5: Calculation of Fees

The Michigan FOIA statute permits the Township to charge for the following costs associated with processing a request:

- Labor costs associated with searching for, locating, and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the Township.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Township.
- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the township's website if you ask for the township to make copies.
- The cost of CD's, USB drives or other digital or similar media when the requester asks for records in non-paper physical media. This may include the

cost for copies of records already on the township's website if you ask for the township to make copies.

- The cost to mail or send a public record to a requestor.

Labor costs will be calculated based on the following requirements:

- All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down. Labor costs will be charged at the hourly wage of the lowest-paid Township employee capable of doing the work in the specific fee category, regardless of who performs the work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- The Township may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at the hourly rate of six (6) times of the then state minimum hourly wage.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Any form of non-paper physical media (for example, USB drives, CD's, computer tapes or other digital or similar media) will be at the actual and most reasonable economical cost for the non-paper media.
- This cost will only be assessed if the Township has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- The Township will procure any non-paper media and will not accept media from the requestor to ensure integrity of the Township's technology infrastructure.

The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The Township will provide records using double-sided printing if it is cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The Township may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless specified by the requestor.

If the FOIA Coordinator does not respond to a written request in a timely manner, the Township must:

- Reduce the labor costs by 5% for each day the Township exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
 - The Township's late response was willful and intentional,
 - The written request conveyed a request for information within the first 250 words of the body of a letter facsimile, or electronic method, or
 - The written request included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy" or a recognizable misspelling of such, or legal code reference to MCL 15. 231, et seq. or 1976 Public Act 442 on the front of an envelope or in the subject line of an electronic file, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form.

The following factors shall be used to determine an unreasonably high cost to the Township:

- Volume of the public record requested
- Amount of time spent to search for, examine, review and separate exempt from nonexempt information in the record requested.
- Whether the public records are from more than one Township department or whether various Township offices are necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

(Attorney General Opinion 7083 of 2001) compared to the costs of the township's usual FOIA requests, not compared to the township's operating budget. (Bloch v.

Davison Community Schools, Michigan Court of Appeals, Unpublished, April 26, 2011)

Section 6: Waiver of Fees

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefiting the general public. The township board may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

Section 7: Discounted Fees

Indigence

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- Indigent and receiving specific public assistance, or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

An individual is not eligible to receive the waiver if:

- The requestor has previously received discounted copies of public records from the Township twice during the calendar year; or
- The requestor requests information in connection with other persons who are offering or providing payment to make the request.

An affidavit is sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

Nonprofit organization advocating for developmentally disabled or mentally ill individuals

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from:

- A nonprofit organization formally designated by the state to carry out activities under subtitle C of the federal 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, if the request 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.
- Is accompanied by documentation of its designation by the state, if requested by the public body.

Section 8: Appeal of a Denial of a Public Record

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may appeal to the Township Board by filing an appeal of the denial with the office of the Township Supervisor.

The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial. The Township FOIA Appeal Form (To Appeal a Denial of Records), may be used.

The Township Board is not considered to have received a written appeal until the first regularly scheduled Township Board meeting following submission of the written appeal.

Within 10 business days of receiving the appeal the Township Board will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- Reverse the disclosure denial in part and uphold the disclosure denial in part; or
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the Township Board shall respond to the written appeal. The Township Board shall not issue more than 1 notice of extension for a particular written appeal.

If the Township Board fails to respond to a written appeal, or if the Township Board 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 in Circuit Court.

Whether or not a requestor submitted an appeal of a denial to the Township Board, he or she may file a civil action in Circuit Court within 180 days after the Township's final determination to deny the request.

If a court that determines a public record is not exempt from disclosure, it shall order the Township to cease withholding or to produce all or a portion of a public

record wrongfully withheld, regardless of the location of the public record. Failure to comply with an order of the court may be punished as contempt of court.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in such an action, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or Township prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

If the court determines that the Township 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 Township 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.

Section 9: Appeal of an Excessive FOIA Processing Fee

“Fee” means the total fee, or any component of the total fee calculated under section 4 of the FOIA, including any deposit.

If a requestor believes that the fee charged by the Township to process a FOIA request exceeds the amount permitted by state law or under this policy, he or she must first appeal to the Township Board by submitting a written appeal for a fee reduction to the office of the Township Supervisor.

The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The Township FOIA Appeal Form (To Appeal an Excess Fee) may be used.

The Township Board is not considered to have received a written appeal until the first regularly scheduled Township Board meeting following submission of the written appeal.

Within 10 business days after receiving the appeal, the Township Board will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;

- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Township Board will respond to the written appeal. The Township Board shall not issue more than 1 notice of extension for a particular written appeal.

Where the Township Board reduces or upholds the fee, the determination must include a certification from the Township Board that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and Section 4 of the FOIA.

Within 45 days after receiving notice of the Township Board's determination of an appeal, the requesting person may commence a civil action in Circuit Court for a fee reduction.

If a civil action is commenced against the Township for an excess fee, the Township is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

An action shall not be filed in circuit court unless **one** of the following applies:

- The Township does not provide for appeals of fees,
- The Township Board failed to respond to a written appeal as required, or
- The Township Board issued a determination to a written appeal.

If a court determines that the Township required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or Section 4 of the FOIA, the court shall reduce the fee to a permissible amount. Failure to comply with an order of the court may be punished as contempt of court.

If the requesting person prevails in court 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. The award shall be assessed against the public body liable for damages.

If the court determines that the Township has arbitrarily and capriciously violated the FOIA by charging an excessive fee, the court shall order the Township to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any 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.

Section 10: Conflict with Prior FOIA Policies & Procedures; Effective Date

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by Township Board or the Township Administration these Procedures and Guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the Township Board or the Township Administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the Township Board or the Township Administration, and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the Township Board of any change to these Procedures and Guidelines.

The FOIA policies and guidelines became March 10, 2025 upon approval of the Township Board, as reflected in the regular meeting minutes dated March 10, 2025. Revisions to this policy shall only be enacted when approved by the Township Board and reflected in the applicable meeting minutes. This policy shall be updated as appropriate.

Clerk's Certification

I, Michael T. Leffler, the duly elected, qualified and acting clerk of the Township of Davison, Genesee, do certify that the above Policy was adopted at the regular meeting of the Township Board held in the Government Center, 1280 North Irish, Davison, MI on the 10th day of March, 2025 by a majority of the members of the board presenting and voting.

/s/ Michael T. Leffler

Township Clerk

Michael T. Leffler, Lt. Col (Ret.), USAF