

Iron County Road Commission

Public Summary of FOIA Procedures and Guidelines

It is the public policy of the State of Michigan that all persons (except those persons incarcerated in state or local correctional facilities) 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 public employees.

The people shall be so informed so that they may fully participate in the democratic process.

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is the Written Public Summary of the Road Commission's FOIA Procedures and Guidelines relevant to the general public.

This is only a summary of the Road Commission's FOIA Procedures and Guidelines. For more details and information, copies of the Road Commission's FOIA Procedures and Guidelines are available at no charge at the Road Commission office and on the Road Commission's website,

www.ironcountyroads.com.

How do I submit a FOIA request to the Road Commission?

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Road Commission must be in writing. A request may be submitted on the Road Commission's FOIA Request Form or in any other form of writing (letter, fax, e-mail, etc.).
- A request must sufficiently describe a public record so as to enable the Road Commission to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the Road Commission in providing a prompt response.
- No specific form to submit a written request is required. However, a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the Road Commission's website at www.ironcountyroads.com, and at the Road Commission's office.
- Written requests may be delivered to the Road Commission office in person or by mail: FOIA Coordinator, Finance Director.
- Requests may be e-mailed to: info@ironcountyroads.com. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line.
- Please note that the Road Commission is not obligated to create a new public record or make a compilation or summary of information which does not already exist.

What kind of response can I expect to my request?

- Within 5 business days after receiving a FOIA request, the Road Commission will issue a response. If a FOIA request is received by fax or e-mail, the request is deemed to have been received on the following business day.
- The Road Commission will respond to your FOIA request in one of the following ways:
 - Grant the request; or
 - Issue a written notice denying the request; or
 - Grant the request in part and issue a written notice denying part of the request; or
 - Issue a notice indicating that the Road Commission needs an additional 10 business days to respond; or
 - Issue a written notice indicating that the public record requested is available at no charge on the Road Commission's website.
- If the FOIA request is granted, or granted in part, the Road Commission will ask you to pay all the allowable fees associated with responding to the request before the public record is made available to you.
- If the cost of processing the FOIA request is expected to exceed \$50.00, or if you have not paid for a previously granted FOIA request, the Road Commission will require a deposit before processing your FOIA request.

What are the Road Commission's deposit requirements?

- If the Road Commission has made a good faith calculation that the total fee for processing the FOIA request will exceed \$50.00, the Road Commission will require you to provide a deposit in the amount of 50% of the total estimated fee. When the Road Commission requests the deposit, it will provide you with a non-binding, best-efforts estimate of how long it will take to process the request after you have paid your deposit.
- If you have not fully paid the Road Commission for copies of public records that were made available to you in fulfillment of a previously granted FOIA request, the Road Commission will require you to pay a deposit of 100% of the estimated processing fee for any subsequent FOIA request before the Road Commission begins to search for a public record, if **all** the following conditions exist:
 - The final fee for the prior FOIA request is not more than 105% of the estimated fee; and
 - The public records made available contained the information sought in the prior FOIA request and remain in the Road Commission's possession; and
 - The public records were made available to you, subject to payment, within the best-efforts time frame estimated by the Road Commission to provide the records; and

- Ninety (90) days have passed since the Road Commission notified you in writing that the public records were available for pickup or mailing; and
- You are unable to show proof of prior payment to the Road Commission; and
- The Road Commission has calculated an estimated detailed itemization that is the basis for the current FOIA request's increased fee deposit.
- The Road Commission will not require you to make the 100% estimated fee deposit if any of the following apply:
 - You can show proof of prior payment in full to the Road Commission; or
 - The Road Commission is subsequently paid in full for all applicable prior written requests; or
 - Three hundred sixty-five (365) days have passed since you made the request for which full payment was not remitted to the Road Commission.

How does the Road Commission calculate FOIA processing fees?

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

- 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.
- 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 Road Commission.
- Labor costs associated with a review of a record to separate and delete information that is exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Road Commission.
- 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 Road Commission's website if you ask for the Road Commission to make copies.
- The cost of computer discs, computer tapes, or other digital or similar media when you request records on non-paper physical media. This may include the cost for copies of records already on the Road Commission's website if you ask for the Road Commission to make copies.
- The actual cost to mail or send a public record to you.

Labor costs

- 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 Road Commission employee capable of doing the work in the specific fee category, regardless of who actually does the work.

- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The Road Commission may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but the Road Commission will not charge more than the actual cost of fringe benefits.
- Overtime wages will not be included in the calculation of labor costs unless agreed to by you. Overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at an hourly rate not to exceed 6 times the state minimum hourly wage.

Copying and Duplication

Paper Copies

- 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 Road Commission will provide records using double-sided printing, if it is cost-saving and available.

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such as computer discs, computer tapes, or other digital or similar media, will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the Road Commission has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Mailing Costs

The Road Commission may charge you for the costs of mailing a public record to you. These costs will be based on the following:

- The actual cost of mailing the record(s), using a reasonably economical and justified means; and
- The least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless you request it.

Waiver of Fees

The cost of searching for and copying a public record may be waived or reduced if the FOIA Coordinator determines that a waiver or reduction of the fee is in the public interest. The Road Commission Board may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

How do I qualify for an indigence discount on the fee?

The Road Commission will waive the first \$20.00 of the processing fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or

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

You are **not** eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the Road Commission twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is a sworn statement made under penalty of perjury.

Can a nonprofit organization receive a discount on the fee?

The Road Commission will waive 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, if the request meets all of the following requirements:

- It is made directly on behalf of the organization or its clients; and
- It 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
- It is accompanied by documentation of the designation by the State.

Can I challenge the denial of my request for a public record?

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the Road Commission Board by filing a written appeal of the denial with the Road Commission office.

The appeal must be in writing, specifically state the word “appeal,” and identify the reason or reasons you are seeking a reversal of the denial. You may use the Road Commission’s FOIA Appeal Form (To Appeal a Denial of Records), which is available at the Road Commission’s office and on the Road Commission’s website: www.ironcountyroads.com.

The Road Commission Board is not considered to have received written appeal until the first regularly scheduled Road Commission Board meeting following submission of the written appeal. Within 10 business days of receiving the appeal the Road Commission Board will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial;
- Reversing the disclosure denial in part and upholding the disclosure denial in part; or
- Under unusual circumstances, such as the need to examine or review a voluminous amount separate and distinct public records, issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Road Commission Board will respond to the written appeal.

Whether or not you submitted an appeal of a denial to the Road Commission Board, you may file a civil action in the Iron County Circuit Court within 180 days after the Road Commission’s final determination

to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs, and disbursements. If the court determines that the Road Commission acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court will award you punitive damages in the amount of \$1,000.00.

Can I challenge an excessive FOIA processing fee?

If you believe that the fee or good faith deposit by the Road Commission to process your FOIA request exceeds the amount permitted by state law or under the Road Commission's FOIA Procedures and Guidelines, you must first appeal to the Road Commission Board by submitting a written appeal for a fee reduction to the Road Commission office.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted by state law or under the Road Commission's FOIA Procedures and Guidelines. You may use the Road Commission's FOIA Appeal Form (To Appeal an Excess Fee), which is available at the Road Commission's office and on the Road Commission's website: www.ironcountyroads.com.

The Road Commission Board is not considered to have received a written appeal until the first regularly scheduled Road Commission Board meeting following submission of the written appeal. Within 10 business days after receiving the appeal, the Road Commission 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 the period during which the Road Commission Board will respond to the written appeal by not more than 10 business days.

Within 45 days after receiving notice of the Road Commission's Board's determination of the processing fee appeal, you may commence a civil action in the Iron County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all of or an appropriate amount of your reasonable attorneys' fees, costs, and disbursements. If the court determines that the Road Commission acted arbitrarily or capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.00.

If you have further questions regarding the Road Commission's FOIA policies, you are encouraged to review the Road Commission's FOIA Procedures and Guidelines, which are available at the Road Commission office and on the Road Commission's website: www.ironcountyroads.com