

SANDS TOWNSHIP

FREEDOM OF INFORMATION ACT

POLICY & PROCEDURE GUIDE

Adopted by the Sands Township Board June 9, 2015

STATEMENT OF PRINCIPLES

The Michigan Freedom of Information Act (FOIA) requires that public bodies grant full and complete access to information regarding the affairs of their operations, except to those incarcerated. This act provides for public access to certain records; permits certain fees; prescribes the powers and duties of certain public officers; and provides remedies, penalties and repeals to certain acts and parts of acts.

PURPOSE

The purpose of this policy is to assure compliance with the Michigan Freedom of Information Act as required and permitted by statutes.

GENERAL POLICIES

It is the policy of Sands Township to comply with State law regarding FOIA requests 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 in order to ensure the effective operation of government and to protect the privacy of individuals.

Sands 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.

A person requesting to inspect public records will be provided a scheduled appointment date and time during regular office hours. This is so employees can gather the documents and provide an area for inspection.

RECEIVING REQUEST:

- FOIA Coordinator: The Sands Township Clerk, or his/her designee, is the designated FOIA coordinator.

FOIA requests must be stamped with date received, and initialed and given to the FOIA Coordinator immediately. If a request for a public record is received by fax or email, the request is deemed to have been received on the following business day. If a request is sent by email 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.

- Requests for departmental information that is furnished to the general public on a regular basis, should not be treated as a FOIA request. Examples of this type of information are documents that are available on the township website, and other printed materials produced for public information and disclosure.
- All denials under this act must be authorized by the FOIA Coordinator and must cite the reason for denial.

REQUEST REQUIREMENTS:

- Request under the FOIA must meet the following requirements.
 1. All FOIA requests must be submitted in writing. If you require assistance with writing or translating, please contact the FOIA Coordinator. Requests received by facsimile, electronic mail, or other means are considered received the first business day following the transmittal. (Should an electronic email be delivered to a spam or junk mail folder, the time period will begin one day after the public body becomes aware of the electronic request.)
 2. The requested information must be identifiable. The written request should describe the public record sufficiently to enable the public body to find the public record.
 3. The requested document and/or information must exist.
 4. The requested records should not be exempt from disclosure under the Act as referenced in MCL 15.243.
 5. The FOIA request can be a single (one-time) request or a renewable subscription request (information disseminated on a regular basis for up to six months.)
 6. Prisoners in state, county or federal correctional facilities are not entitled to make requests.

RESPONDING TO REQUEST:

- The appropriate department and/or the FOIA Coordinator shall determine the scope the FOIA request. (e.g. the time required to search for, examine, separate/delete exempt information, and/or copy the requested records.)
- Sands Township may charge fees for reproducing requested records in accordance with Section 4 of FOIA. (MCL 15.234)
 1. Sands Township will use the established FOIA fees as outlined in the attached fee schedule to estimate the cost of providing the requested information.
 2. The first \$50 of a fee shall be waived for a person who qualifies as indigent per attached Affidavit of Indigency form.
 3. The FOIA Coordinator shall periodically review and recommend FOIA fee adjustments to the Sands Township Board.
- In accordance with the Act, unless otherwise agreed to in writing by the person making the request, the request shall be responded to within 5 business days by doing one of the following:
 1. Process and grant the request.
 2. Issue a written notice to deny the request.
 3. Grant the request in part and issue a written notice to deny the request in part
 4. Under unusual circumstances (see MCL 15.232, (g)), issue a notice to extend the response period by 10 business days
 5. If the cost of the request is expected to exceed \$100, issue a notice to the requestor to provide a 50% good faith deposit prior to processing the request.

EXEMPTIONS:

- Per MCL 15.243, FOIA permits a public body to withhold from public disclosure some specific information. The following is an incomplete list (refer to MCL 15243 for a complete list):
 1. Specific personal information about an individual if the release would constitute a clearly unwarranted invasion of that individual's privacy.
 2. Investigating records compiled for law enforcement purposes, but only to the extent that disclosure would do any of the following:
 - a. Interfere with law enforcement proceedings.
 - b. Deprive a person of the right to a fair trial or impartial administrative adjudication.
 - c. Constitute an unwarranted invasion of person privacy.
 - d. Disclose the identity of a confidential source or, if the record is compiled by a criminal law enforcement agency in the course of a criminal investigation, disclose the confidential information furnished only by a confidential source.
 - e. Disclose law enforcement investigative techniques or procedures.
 - f. Endanger the life or physical safety of law enforcement personnel.
 3. Records or information specifically described and exempted by other statutes.
 4. Information or records subject to the attorney-client privilege.
 5. Information or records subject to physician-patient privilege.
 6. Sealed Bids prior to the public opening.
 7. Records or information relating to a civil action in which the requesting party and the public body are parties.
 8. Social Security Numbers.

COSTS:

- A public body has the right to charge for information provided under the Freedom of Information Act. Such a charge is limited to actual mailing costs and the actual costs of duplication or publication, including labor and the cost to search, examine, review, and redact exempt information. A fee shall not be charged for the cost of search examination, review, and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonable high costs to the public body. **The Sands Township Board defines “unreasonable high costs” as greater than one hour of staff time.**
- Effective July 1, 2015, should an individual have an outstanding debt for a FOIA request that was placed 365 days or less prior to the current request, Sands Township will require an individual to pay a deposit of 100% of the estimated fee for the current FOIA request.
- Non-paper physical media devices will be provided by the Township. Devices provided may not be used, as they may inadvertently introduce computer viruses into the Township computers.
- An individual who submits an affidavit of indigency is eligible for fee reduction if any of the following do not apply:
 1. The individual has previously received discounted copies two or more times during the past 365 days.
 2. The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual making the request.

APPEAL:

An individual is entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15240, to appeal to the Township Board by a written appeal that specifically states the word “appeal” and identifies the reason or reasons for reversal of the denial, or to commence an action in the Circuit Court to compel disclosure of the requested records if there is belief of wrongful withholding from disclosure. If successful assertion of the right to inspect or to receive a copy of public record or a portion of a public record in court occurs, there may be an expectation that the court will award reasonable attorney fees, cost and disbursements.

This policy was adopted at a regular board meeting held on June 9, 2015

This policy replaces any prior FOIA policies.

**FREEDOM OF INFORMATION ACT
FEE SCHEDULE**

Type of reproduction	Cost	Unit
Copies of a document	\$.10	Per page
Additional copies of the same document	\$.10	Per page
Labor cost incurred in duplication	*\$.21	Per 1 minute unit
Labor cost incurred for search, examination, review and the deletion and separation of exempt from nonexempt information	*\$4.17	Per 15 minute unit
Attorney cost (effective July 1, 2015) Attorney Kevin Koch (not to exceed 6 times states minimum wage rate)	\$12.15	Per 15 minute unit
Non-paper physical media (disc, flash drive)	Actual cost	Per flash drive Per CD
Envelopes	Actual cost	per unit
Postage charges	Actual cost	Per mailing

*Hourly wage of the lowest paid employee capable of retrieving the information necessary to comply with the request. The rate listed was calculated using the hourly wage of the Administrative Assistant.

Waivers:

The first \$50 of the fee shall be waived for an individual who submits an “Affidavit of Indigency” and meets the eligibility requirements.

Deposits:

If the fee for the search and providing the public information exceeds \$100, a deposit of 50% of the estimated fee is required.

Other:

Fees must be paid in full prior to the actual delivery of the public information or copies.

Effective July 1, 2015, 100% of fee estimate will be required when a prior request was made within 365 days, by the same person or entity, and was not paid.