

MISSAUKEE COUNTY ROAD COMMISSION

Public Summary of FOIA Policy

It is the public policy of this state that all persons
(except those 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 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 Missaukee County Road Commission's FOIA Policy relevant to the general public.

This is only a summary of the Road Commission's FOIA Policy. For more details and information, copies of the Road Commission's FOIA Policy are available at no charge at the Road Commission office and on the Road Commission's website at: www.mcrc-roads.com.

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

- 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.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Road Commission may be submitted in writing in person, by mail, by fax or by e-mail. No specific form is required.
- Requests in person may be made at the Road Commission office at 1199 S. Morey Road, Lake City, MI.
- Requests may be faxed to (231) 839-5381.
- Requests should be e-mailed to **BOTH**: lynn@mcrc-roads.com and susan@mcrc-roads.com. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line.

2. What kind of response can I expect to my request?

- Within 5 business days after receiving the FOIA request the Road Commission will issue a response. If a 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 request in one of the following ways:
 - Grant the request
 - Issue a written notice denying the request
 - Grant the request in part and issue a written notice denying the request in part
 - Issue a notice indicating that due to the nature of the request the Road Commission needs an additional ten (10) days to respond
 - Issue a written notice indicating that the public record requested is available at no charge on the Road Commission's website
- If the request is granted, or granted in part, the Road Commission will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.
- If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the Road Commission will require a deposit before processing the request.

3. 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 request will exceed \$50, the Road Commission will require that you provide a deposit in the amount of 50% of the total estimated fee.
- If the Road Commission receives a request from a person who has not paid for copies of public records made in fulfillment of a previously granted written request, the Road Commission will require a deposit of 100% of the estimated processing fee before it begins to search for the public record.
- The Road Commission will discount the first \$20 of fees for a request if you submit an affidavit stating that you are indigent and receiving public assistance or state facts demonstrating an inability to pay because of indigence. An affidavit is a sworn statement. The Road Commission will provide an Affidavit of Indigence for the waiver of FOIA fees.

4. 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 request:

- Labor costs for copying or duplication, which includes making paper copies or digital copies, transferring digital public records to non-paper physical media or through the internet.
- Labor costs for 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 to review a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Road Commission.
- The cost of copying or duplicating, 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 the Road Commission to make copies.
- The cost of computer disks, tapes or other digital or similar media when the requester asks for record in non-paper physical media. This may include the cost of copies of records already on the Road Commission's website if you ask for the Road Commission to make digital copies.
- The cost to mail or send a public record to a requestor.

Labor Costs

- All labor costs will be estimated and charged in 15 minute increments, with all partial time increments rounded down. If the time is less than 15 minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest paid Road Commission employee capable of doing the work, regardless of who actually performs the work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. Up to 50% of the applicable labor charge may be added to cover or partially cover the cost of fringe benefits but in no case may it exceed the actual cost of the fringe benefits.
- Overtime wages will not be included in the 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 6 times the state minimum hourly wage.

A labor cost will not be charged for the search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Road Commission. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the Road Commission's usual FOIA requests, because of the nature of the request in the particular instance. The Road Commission must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplicating

The Road Commission must use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

Non-Paper Copies on Physical Media

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

Paper Copies

- Paper copies for 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.

Mailing Costs

- The cost to mail public records will be the most reasonably economical method.
- The Road Commission may charge for 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 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 benefitting the general public. The Board of Road Commissioners may identify specific records or types of records it deems should be made available at no charge or at a reduced cost.

5. How may I challenge the denial of a public record or an excessive fee?

Appeal of a Denial of 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 the disclosure, you may appeal to the Board of Road Commissioners by filing a written appeal of the denial with the office of the Road Commission.

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.

At the next regularly scheduled meeting following the submission of an appeal, the Board of Road Commissioners will consider the appeal. Within ten (10) business days, the Board of Road Commissioners will respond in writing by:

- Reversing the denial
- Upholding the denial
- Reverse the denial in part and uphold the denial in part

Whether or not you submitted an appeal of a denial to the Board of Road Commissioners, you may file a civil action in the 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 attorney 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 shall award you damages in the amount of \$1000.

Appeal of an Excess FOIA Processing Fee

If you believe that the fee charged by the Road Commission to process your FOIA request exceeds the amount permitted by state law, you must first appeal to the Board of Road Commissioners by filing a written appeal for a fee reduction to the office of the Road Commission.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

At the next regularly scheduled meeting following the submission of an appeal, the Board of Road Commissioners will consider the appeal. Within ten (10) business days, the Board of Road Commissioners will respond in writing by:

- Waiving the fee
- Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee
- Upholding the fee and issue a written determination indicating the specific basis that supports the required fee
- Issuing a notice detailing the reason or reasons for extending for not more than ten (10) business days the period during which the Board of Road Commissioners will respond to the written appeal

Within 45 days after receiving the notice of the Board of Road Commissioner's determination of the processing fee appeal, you may commence a civil action in the 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 or an appropriate amount of reasonable attorney fees, costs and disbursements. If the court determines that the Road Commission acted arbitrarily and capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.