

OSHTEMO CHARTER TOWNSHIP
KALAMAZOO COUNTY MICHIGAN

FREEDOM OF INFORMATION ACT

Policy & Procedure Guide

Adopted by: Oshtemo Charter Township Board

April 28, 2015

OSHTEMO CHARTER TOWNSHIP

SUMMARY OF OSHTEMO CHARTER TOWNSHIP
FREEDOM OF INFORMATION ACT
POLICY & PROCEDURE GUIDE

◆ **Purpose of Policy:** To assure compliance with the Michigan Freedom of Information Act.

◆ **Who to make FOIA request to:** Township Clerk/FOIA Coordinator

7275 West Main Street, Kalamazoo, MI 49009
(269) 375-4260
Email Address: oshtemo@oshtemo.org

◆ **How to submit request:** Use Freedom of Information Request form
Submit the same in writing
Describe the documents you are requesting
Check nature of request being made
Choice payment option
Sign the same and submit it as set forth above

How must the Township respond: Clerk must respond within 5 business days to grant, deny, grant in part, or deny in part.
Extension of response may be up to 10 business days,
request deposit

◆ **Option if denied:** You have a right to appeal any denial.
Please see Notice of Right to Appeal in Policy & Procedure Guide

Not all records are public records. See Exemption page attached hereto.
Public Act 442, Section 13, Paragraph 1.

The Michigan Freedom of Information Act (FOIA) requires that public bodies grant full and complete access to information regarding the affairs of their operations. 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.

The Freedom of Information Act is designed to implement a strong state policy that all records maintained by government, unless exempted, are to be made available to the public upon request.

As a public body, Oshtemo Charter Township is required to assure that all persons (except those incarcerated in state or local correctional facilities) are entitled to full and complete information if the procedures of the Act are followed. Information covered under the FOIA include business transactions and paperwork maintained, received and generated as part of the governmental unit.

The purpose of this policy is to:

- ◆ Assure compliance with the Freedom of Information Act by all Township Departments and Offices as required and permitted by statutes.
- ◆ Formulate a comprehensive policy that will be applicable Township-wide regarding the dissemination of information pursuant to the Freedom of Information Act (MCL.14.231 et. Sec.) (Public Act 553 of 1996), as amended.
- ◆ Communicate to Township elected officials, department heads, employees, and the public the formal Township Policy on Freedom of Information requests.

I. RECEIVE THE REQUEST

1. FOIA Officer - The Township Clerk, or his/her designee, is the designated FOIA Officer with authorization by the Oshtemo Charter Township Board to accept and process requests for public records and to approve denials under this act.
2. The FOIA Officer shall be notified of all requests for processing. The Township Clerk or his/her designee shall prepare a memo to the Township department or departments requesting the documents and a statement regarding the time required to compile the documents. Requests for departmental information that is furnished to the general public through normal operations should not be treated as a FOIA request. This includes information readily available on the Township website, pamphlets, loose-leaf publications, and other printed materials (e.g. reports) produced for public information and disclosure. In addition, manuals and forms, adopted or used by the Township in the discharge of its functions should also be made available without a FOIA request.
3. All denials under this act must be authorized by the FOIA Officer and must cite the reason for denial.
4. Requests under the Freedom of Information Act must meet the following requirements:
 - a. All FOIA requests must be submitted in writing. If you require assistance with writing or translating, please contact the FOIA Officer. Individuals can submit their requests in letter format or complete and return a Request for Information form (FOIA #010) attached and also available on the Township's website at www.oshtemo.org. Requests received by facsimile, electronic mail or other electronic means are considered received the first business day following the transmittal.
 - b. 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.
 - c. The requested document and/or information must exist.
 - d. The requested records should NOT be exempt from disclosure under the Act as referenced in FOIA 15.243, Section 13 (see attachment).
 - e. 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).

- f. Prisoners in state, county or federal correctional facilities are not entitled to make requests.
5. All requests received from attorneys will be forwarded to Corporate Counsel for information, and if deemed necessary, for action.

II. RESPOND TO THE REQUEST

1. The Clerk's Office shall **determine the scope of the FOIA request** (e.g. the time required to search for, examine, separate/delete exempt information, and/or copy the requested records).
2. The Clerk may charge fees for reproducing requested records in accordance with Section 4 of the FOIA.
 - a. The Clerk's Office should use the established FOIA fees as outlined in the attached fee schedule to **estimate the cost of providing the requested information.**
 - b. The first \$20 of a fee shall be waived for a person who receives public assistance or presents facts showing inability to pay because of indigency.
 - c. The FOIA Officer shall periodically review and recommend FOIA fee adjustments to the Oshtemo Charter Township Board. Approved fees shall be communicated to all Departments and Elected Offices of the Township.
3. In accordance with the Act (Reference 15.235, Section 5.2): Unless otherwise agreed to in writing by the person making the request, the Clerk's Office (public body) shall **respond to the FOIA request within 5 business days** by doing one of the following:
 - a. Process and grant the request.
 - b. Issue a written notice to deny the request.
 - c. Grant the request in part and issue a written notice to deny the request in part.
 - d. Under unusual circumstances (See FOIA 15.232, Section 2.g), issue a notice to extend the response period by 10 business days.
 - e. If the cost of the request is expected to exceed \$50, issue a notice to the requestor to provide a 50% good faith deposit prior to processing the request.

III. RECORD THE REQUEST

1. The Clerk's Office or his/her designee that processes FOIA information shall establish and maintain a **FOIA file** to track and record related details to verify the following:
 - a. Compliance with FOIA 15.233, Section 3.2 - A copy of all written FOIA requests for public records should be kept on file for no less than one (1) year.
 - b. Compliance with FOIA 15.235, Section 5.2 - A public body shall respond to a request for a public record within five (5) business days after its receipt.
 - c. Compliance with FOIA 15.234, Section 4.3 - Fees shall be uniform and not dependent upon the identity of the requesting person.
2. The FOIA files should maintain the written request and written response identifying (as a minimum) the following items:
 - a. Date Received
 - b. Brief Description of Request
 - c. Requesting Party
 - d. Date Responded
 - e. Response Type (granted, denied, partial, extension, deposit)
 - f. Fees Charged
 - g. Fees Collected
3. In addition to the file, the Clerk's Office shall keep on file a time stamped copy of all requests and responses for a period of one (1) year following their issuance.
4. FOIA files, requests, responses and related information must be available for review by the FOIA Officer upon request.
5. The Clerk's Office shall comply with the following FOIA related record retention responsibilities in accordance with 15.233, Section 3.3:
 - a. Furnish the requesting person a reasonable opportunity for inspection and examination of its public records and furnish reasonable facilities for making memoranda or abstracts from its public records during usual business hours.
 - b. Make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions.
 - c. Protect public records from loss, unauthorized alteration, mutilation, or destruction.

FREEDOM OF INFORMATION REQUEST FORM*

TO: OSHTEMO CHARTER TOWNSHIP

REQUESTED BY:

(Name)

(Address)

(Telephone)

DESCRIPTION OF PUBLIC RECORDS REQUESTED: _____

NATURE OF REQUEST [check one below]:

- Please provide a copy of the requested public records.
- Please provide a certified copy of the requested public records.
- Please allow me an opportunity to inspect the requested public records prior to copying. I understand that the Township may require me to schedule an appointment for this inspection.

PAYMENT [check one below]:

I understand that the Township will charge me a fee for providing a copy of a public record, including the cost of copying, mailing, searching, examining, reviewing, separating and deleting exempt information. I understand that a deposit of one-half of the anticipated fee (if the fee is estimated to exceed \$50) will be required.

Attached is an Affidavit of Indigency. Please furnish me the requested public records without charge for the first \$20.00 of the required fee. I agree that the Township may respond to my request by the _____ day of _____, 20____.

(Date)

(Signature)

*It is the policy of Oshtemo Charter Township that a written Freedom of Information Act Request is required except when the request involves the following types of records (1) current property record cards; (2) current zoning maps; (3) current zoning and general ordinances; (4) minutes for any meeting within the last 12 months.

OSHTEMO CHARTER TOWNSHIP

FREEDOM OF INFORMATION ACT FEE SCHEDULE

Effective: April 28, 2015

<u>Type of Reproduction</u>	<u>Cost</u>	<u>Unit</u>
CD's, DVD's	\$3.00	per CD/DVD
Copies of a Document		
8½ x 11	\$.10	per page
8½ x 17	\$.15	per page
Larger copies: 24 x 36	\$.30	per page
36 x 48	\$.75	per page
Labor cost incurred in examination, review separation, deletion, and duplication, etc.	\$4.71*	per ¼ hour
Actual postage charges	Actual	per mailing

Waivers

The first \$20 of the fee shall be waived for each request of an individual who submits an Affidavit of Indigency stating that they are receiving public assistance or facts showing inability to pay the full cost.

A waiver of fees will **not** be provided to an indigent person requesting additional copies of identical documents previously provided with a waiver of fees pursuant to a prior request under the FOIA.

Deposits

If the fee for the search and providing the public information exceeds \$50, a deposit of ½ the estimated fee is required.

Other

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

The Clerk's Office cannot refuse to process a subsequent FOIA request on the ground that the requestor failed to pay fees charged for a prior FOIA request.

* Hourly wage of the lowest paid departmental employee capable of retrieving the information necessary to comply with the request. The rate listed was calculated using the hourly wage of \$12.55 + 50% benefits = \$18.83 prorated in ¼ units.

FREEDOM OF INFORMATION ACT

NOTICE OF RIGHT TO APPEAL

After notification of a denial of a Freedom of Information Act request, the requesting party has the right to undertake either of the following actions to appeal the decision:

1. Submit to the Supervisor of Oshtemo Charter Township a written appeal that specifically states the word “appeal” and identifies the reasons for the reversal of the disclosure denial to:

Attn: Oshtemo Charter Township Supervisor
7275 West Main Street
Kalamazoo, MI 49009

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

The Supervisor shall, within 10 days after receiving written appeal, do one of the following:

Reverse the denial.

Issue written notice upholding the denial.

Reverse the denial in part and issue written notice upholding denial in part.

Under unusual circumstances, issue notice extending for not more than 10 business days the period during which the head of the public body shall respond to written appeal.

2. Seek judicial review under Section 10 of the FOIA.

The requesting party also has the right to receive attorney-s fees and damages as provided in Section 10 of the FOIA if, after judicial review, the Circuit Court determines that the public body has not complied with this Section and orders disclosure of all or portions of the public record.

EXEMPTIONS UNDER P.A. 442, SECTION 13, PARAGRAPH 1:

- A. Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of the individual's privacy.
- D. Records or information specifically described and exempted from disclosure by Statute.
- E. A public record or information described in this Section which is furnished by the public body originally compiling, preparing or receiving the record or information to a public officer of public body in connections with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remains applicable.
- F. Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:
 - i. The information is submitted upon a promise of confidentiality by the public body.
 - ii. The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.
 - iii. A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision shall not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.
- G. Information or records subject to the Attorney Client Privilege.
- I. A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the time for receipt of bids or proposals has expired.
- M. Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action.

A motion was made by Grant Taylor, seconded by Lee Larson, to adopt the foregoing Resolution.

Upon a roll call vote, the following voted "Aye":

Elizabeth Heiny-Cogswell, Deborah Everett, Nancy Culp, Dusty Farmer,
Lee Larson, Nancy Carr and Grant Taylor

The following voted "Nay": None

The following "Abstained": None

The Supervisor declared that the Resolution has been adopted.

DEBORAH L. EVERETT, Clerk
Oshtemo Charter Township

CERTIFICATE

I hereby certify that the foregoing constitutes a true and complete copy of an Excerpt of the Minutes of a meeting of the Oshtemo Charter Township Board, held on April 28, 2015, at which meeting all members were present and voted upon the same as indicated in said Minutes; that said meeting was held in accordance with the Open Meetings Act of the State of Michigan.

DEBORAH L. EVERETT, Township Clerk