

TOWNSHIP OF BENZONIA
FREEDOM OF INFORMATION ACT POLICY

I. Statement of General Policy.

It is the policy of the Township of Benzonia (Township) that all persons, except those persons incarcerated in state or local correctional families, are entitled to a full and complete information regarding Governmental decision making, consistent with the Michigan Freedom of Information Act (FOIA) and that citizens shall be informed so that they may fully participate in the democratic process.

To that end, it is the intent of this policy to establish the mechanism by which the Township will comply with FOIA and meet its responsibilities to the public.

II. Designation of FOIA Coordinator.

Pursuant to and in compliance with section 6 (1) of the Act, the Township hereby designates the Township Clerk as the FOIA Coordinator for the Township. The FOIA Coordinator shall be responsible for accepting and processing requests for the Township (s) public records under FOIA and shall be responsible for approving the denial under section 5 (4) and (5) of FOIA. The FOIA Coordinator may designate another individual to act on his behalf in accepting and processing requests for the Township(s) public records, and approving a denial under section 5 (4) and (5). That designation shall be in writing and the Township Board shall be advised in writing that the designation or any change in said designation.

III. Handling of FOIA Requests.

A. Form of request.

Except as otherwise provided herein, every person desiring to inspect or receive a copy of a public record must make a written request for the public record to the Township. Such written request may be in any form which complies with FOIA. The Township **may** attempt to provide a request form for such purpose which may be used by the requesting person.

B. Assistance in making request.

Where a person making the request can reasonably identify the information being sought but cannot adequately identify the public record in which the information can be found, the Township staff shall make a reasonable effort to help the requesting party identify such public record.

C. Receipt of request.

The employee receiving a FOIA request shall, immediately upon receipt of same, note on the request the date and time of the receipt thereof and promptly forward the request to the FOIS coordinator.

D. Response to request.

1. Records made immediately available.

When the requesting party appears at the Township Hall, or other Township location where the requested public records are kept, the public record requested is one which there is no doubt as to its public status and the public record is readily available for inspection or copying and Township staff is available to do so, the public record shall be made available to the requesting party for inspection forthwith. The fact that the public record was made available for inspection, or that a copy was provided to the requesting party, should be noted on the written request, indicating the date and time the record was made available and the requesting party should sign an acknowledgement on that written request that the public records have been so provided. The written request, with the added information, should then be forwarded to the FOIA Coordinator as provided in III (c), above.

2. Determination by FOIA Coordinator.

No other written requests will be honored except by the direction of the FOIA Coordinator who shall determine whether the record being requested is a public record, whether the public record or any portion of the public record is exempt under Section 13 of FOIA, what the charge for the public record will be, if a deposit is required as provided for in FOIA, and the amount of the deposit.

3. Form of response.

Except for those instances when a requesting party appears at the Township Hall, or any other Township location where the requested public records are kept, and the public record is made available immediately to the requesting party as provided in III (D) (1) all responses to FOIA requests shall be made by the FOIA Coordinator in the time and manner provided for in FOIA. The response shall, as required by section 5(4) of FOIA, advise the requesting party of the right to appeal that determination to the township board (Supervisor), the right to seek judicial review, and the right to receive attorney (s) fees and damages if successful in circuit court.

IV. RULES REGARDING INSPECTION OF PUBLIC RECORDS.

A. Supervision of record inspection.

In order to protect the safety and integrity of the Township(s) public records, a public record may be made available to a requesting party for inspecting or making notes therefrom only under the supervision of a township employee.

B. Copy of original record.

Where the original public record is in such condition that handling the record for purposes of inspection by the public might endanger the safety or integrity of the public record, the FOIA Coordinator may decide to make a copy of the public record available for inspection instead of the original, and the requesting party shall be made aware of such fact.

V. Fees.

A. Copies involving little or no search time.

Where the public record being copied is one which is readily available and requires little or only nominal time for search, examination and review or deletion and separation of exempt from nonexempt information, the fee for copies shall be \$.10 each. This fee is calculated on the actual cost of making copies on the Township (s) copying equipment and using the Township (s) staff.

B. Copies involving search, examination and review, or deletion and separation of exempt from nonexempt information.

Where the public record being copied is one which requires time for search, examination and review or deletion and separation of exempt from nonexempt information, the fee for copies shall be **\$.75 cents** for every subsequent page, plus the cost of labor involved in the search, examination and review, or deletion and separation of exempt, from nonexempt information; provided, however, that 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 unreasonably high costs to the Township because of the nature of the request in the particular instance the specific nature of which shall be identified in each instance. The cost of labor involved in the search, examination and review, or deletion and separation of exempt from nonexempt information shall be calculated at the rate of **\$19.00 per hour**, or at the rate of the lowest paid employee of the current budget for the time expended with a minimum of one-half hour (1/2 hour), and charged by the nearest quarter hour.

C. Mailing costs.

In addition to the costs provided for in V (A) and (B), above, the fee a requesting party shall pay for receiving a copy of a public record shall also include the mailing costs incurred by the Township in mailing the public records to said requesting party, or to anyone else at the request of the requesting party.

D. Other Costs.

In addition to the costs provided for in V(A), and (B) and (C) above, the fee a requesting party shall pay for receiving a copy of a public record shall also include any other reasonable and necessary costs incurred by the Township in making such public records or copies of public records available. For example, unless the Township has the capability therefore, the cost of providing a blank audio or video tape made by an outside agent shall be included as part of the fee where the public record is an audio or video tape.

E. Waiver of fee.

The fee for a search for a public record or for copies of public records may be waived or reduced if the township board, in its own sole discretion and without establishing any precedent determines that a waiver or reduction of the fee is in the public interest because the searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

F. Deposit.

Unless waived in advance by the township board, the person making a request shall make a good faith deposit in an amount equal to 50% of the total fee if the fee authorized under FOIA exceeds \$50.00, the balance due upon receipt.

G. Statutory fees.

Where a public act or statute specifically authorizes the sale of a public record to the public, or if the amount of the fee for providing a copy of a public record is otherwise specifically provided by an act or statute, the fee charged to the requesting party shall be that established by such act or statute.

VI. Maintenance of Written Requests.

The FOIA Coordinator shall maintain all FOIA written requests, and the responses thereto for a period of one year from the date of the request.

VII. Posting of FOIA.

A copy of FOIA, as most recently amended, shall be posted in a conspicuous place at the township hall for the benefit of the public.

VIII. Consult with legal counsel.

Because of the importance of FOIA to the faith and trust that citizens have in their local government, and because of the possibility of civil damages and penalties imposed on the Township if it is determined that the Township has not complied with FOIA, before any action is taken by the FOIA Coordinator, or any township officer or employee, to deny any requesting party access to a requested public record, the FOIA Coordinator, or such other officer or employee, shall consult with the Township (s) legal counsel on said action. As of July 1, 2015, the new requirements allow townships to recover a portion of their attorney fees if a request must be reviewed or redacted by an attorney, but the amount is limited to six times the state minimum wage. (as of 2024, the minimum wage is \$10.33 X 6 = \$61.98) It also requires individuals who request but do not pick up or pay for their requested documents to pay 100 percent of the cost up front for another FOIA request if they have an outstanding unpaid request within the previous 365 days.

Diana L. Heller, Township Clerk

Date adopted: 10/9/2013

Date amended: 06/10/2015

Date amended: 05/08/2024

Certification

I hereby certify that this is a true and complete copy of a resolution adopt.