

**PORTER TOWNSHIP
FREEDOM OF INFORMATION ACT POLICIES AND PROCEDURES**

POLICY NUMBER 2-09

PORTER TOWNSHIP, CASS COUNTY, MICHIGAN
EFFECTIVE DATE:

WHEREAS, PORTER TOWNSHIP (the "Township") maintains public records and is subject to the requirements of Michigan Freedom of Information Act, and to ensure compliance with the Act;

NOW THEREFORE, the following policies and procedures are hereby adopted:

I. INTRODUCTION

The Freedom of Information Act, being 1976 PA 442 (MCL 15.231 to 15.246), ("FOIA") mandates disclosure of most public records. To fulfill this mandate the Township has established procedures and policies for handling Freedom of Information Act requests. The Township's policy is formulated to meet the state legislature's intent which provides that the FOIA is based on the premise that all residents are entitled to full and complete information regarding the affairs of government.

II. FOIA COORDINATOR

The Township, by resolution, has designated the clerk , to serve as the FOIA Coordinator. Any questions regarding compliance with FOIA should be directed to the Coordinator. For administrative convenience, the FOIA Coordinator may designate an individual to act on his/her behalf in accepting and processing requests for the Township's records for the following departments: Planning, Clerk, Treasury, Engineering, Parks & Recreation, Utilities, Assessing, Building, Fire and EMS, Supervisor's Office and Accounting.

III. FOIA REQUESTS

A. Written Requests

In the event a written FOIA request is received by any employee of the Township or member of the Board of Trustees or any commission, a copy of this should be provided to the FOIA Coordinator the same day it is received. All written requests for production of records shall be processed by the FOIA coordinator.

B. Oral Requests

Although the amended FOIA does not require the Township to honor oral requests, in certain circumstances it would be less than practical to require a written request to be submitted. When an oral request is made to an employee, it shall be referred to their

Department Head. If the request is for a document that is readily available, the individual Department Head may use his/her discretion in providing the documents sought.

C. Requests to Review Records

If a request is received to review records, facilities should be made available to inspect records during normal business hours and when the records can be reasonably made available. The person who wishes to inspect records shall submit a request form describing the requested documents prior to allowing the inspection of the records.

D. Requests Made by Fax, E-Mail or other Electronic Means

These requests shall be deemed received by the FOIA Coordinator one business day after the date the electronic transmission is made and shall be handled in the same manner as a written request in subparagraph A above.

IV. PROCESSING FOIA REQUESTS

The FOIA Coordinator shall maintain a log of all written requests received showing the nature and date of the request, determination of disposition, date of disposition, and manner of final response to the FOIA request. Requests shall sufficiently describe the record to enable the FOIA Coordinator to identify and locate the record. Forms for utilization of FOIA procedures under this policy are available in the Township Clerk's office.

A. Time for Response

The FOIA Coordinator shall, no more than five business days after the request has been made, unless a single extension of not more than ten business days has been issued, or where the time limits have been agreed to upon in writing by the requesting person, provide one of the following responses:

1. Grant the Request. A copy of the request for a public record along with all of the requested documents shall be sent to the person who requested the records on a response for public records form.
2. Deny the Request. The FOIA Coordinator shall sign and state the reasons for denial including an explanation of the requesting person's right to seek a non-mandatory appeal from the FOIA Coordinator's decision to the Township Board or a judicial review of the decision with the Cass County Circuit Court. Failure to timely respond to the request constitutes denial. Denial may be made because, among other reasons, the record does not exist, it cannot be sufficiently identified from the description contained in the request; or the record is exempt.
3. Grant the request and issue a written notice to the requesting person denying such a request in part. Material which is partially exempt and partially subject to disclosure shall be separated or deleted and the non-exempt material offered for inspection. A general description of the separated or deleted information shall be provided to the requesting person.

B. Miscellaneous general requirements for FOIA requests. FOIA requests shall be handled in one or more of the following ways:

1. Provide a reasonable opportunity and facilities for inspecting and taking notes from the records for the requesting person. Original records shall not be removed from the area provided for inspection and note taking.
2. Provide copies of records if so requested. If a fee is charged, a copy of the record shall not be released until a fee has been received or the person making the request demonstrates an inability to pay or is a recipient of public assistance as provided in Article V,B. below.
3. On a request for records which are issued on a subscription basis, e.g., board meeting minutes, on six-month renewal subscription basis, a listing of the requestor's name, address, records subscribed to, charge, and expiration date of subscription shall be maintained by the FOIA Coordinator or his designee.
4. Determining actual cost of mailing, duplication, and search time when compiling the record.
5. If a fee is charged, the person completing the request shall compute the charges and refer the completed charge slip for providing records to the Treasurer's Office. If you anticipate a charge will surpass Fifty and 00/100 (\$50.00) Dollars, you may require a good faith deposit from the requestor, but the deposit cannot exceed one-half of the total anticipated fee.
6. The Treasurer's office shall accept the payment for services rendered and issue a receipt for the same, or, in the few instances where deferred payment is indicated, prepare an invoice and forward it to the requesting person.
7. The FOIA does not require the Township to make a compilation, summary or report of information.

V. FEES AND COSTS

A. In General

A charge may be made for actual mailing costs, copying charges, including labor and cost of sending, examination, review, and deletion and separation of exempt and non-exempt materials. The method of calculating the cost to provide public documents shall be based upon the hourly rate of the lowest paid full time, permanent clerical employee capable of retrieving the information necessary to comply with the request.

B. Copying Charges

The incremental costs of duplication or publication shall be charged at a rate established by the Township Board via resolution per sheet for materials copied by the Township; and if sent to a commercial copy center for copying the Township shall receive

reimbursement for its actual charges. There shall be no charge for a document for an individual who proves indigence or is the recipient of public assistance. State guidelines for determining welfare may be used to determine the indigence. Generally, at the discretion of the FOIA Coordinator, charges may be waived, in any case, providing that the service is in the public interest.

C. Fire Department

Requests to the Fire Department for fire reports shall be provided at a rate established by the Fire Department and approved by the Township Board via resolution.

VI. FOIA REQUESTS BEYOND THE ORDINARY COURSE

A. Pursuant to MCL 15.234(3), in the event a FOIA request is determined by the FOIA Coordinator to be beyond the ordinary course, a fee shall be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as applicable.

B. For purposes of this policy “beyond the ordinary course” shall mean a FOIA request which requires more than two (2) hours of staff time and/or which requires Township staff to utilize duplication services from an outside entity.

C. In the event Township staff is required to utilize duplication services from an outside entity, said entity will be chosen by Township staff on the basis of past experience rather than cost efficiency.

D. Fees and costs associated with this section shall be in addition to fees and costs set forth within this policy and shall be calculated in the manner described herein.

VII. RECORD RETENTION

The FOIA Coordinator shall maintain all FOIA requests on file for no less than one year.

VIII. EXEMPTIONS TO FOIA REQUEST

The FOIA includes twenty categories of documents that are exempt. The following list does not contain all statutory exemption, only the most relevant to Township matters are set forth:

A. Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual’s privacy (related to the individual’s private life, not to his or her public one);

B. Records or information specifically exempted from disclosure by statute;

C. A public record which is exempt based upon one of the approved exemptions remains exempt as long as the original considerations still apply, when that record is provided to an employee or commission in connection with the performance of the duties of that employee or commission;

D. Information or record subject to attorney-client privilege or other privileges recognized by statute or court rule;

E. A bid or proposal by a person is exempt from disclosure until the time of the public opening bids or proposals;

F. Test questions and answers, scoring keys and other examination instruments or data used to administer public employment tests;

G. Testing data developed by the Township to determine whether bidders' products meet Township specifications for purchasing those products are exempt, only if disclosure would reveal that only one bidder met the specifications;

H. Appraisals of real property to be acquired by the Township are exempt from disclosure until an agreement is entered into or three years have elapsed after making the appraisal;

I. Trade secrets or commercial or financial information voluntarily provided for use in developing governmental policy;

J. Communications and notes within or between public bodies may be exempt from disclosure if communications are advisory in nature and meet the following conditions:

- (i) cover other than purely factual materials;
- (ii) are preliminary to final determinations of policy or action by the Township and;
- (iii) the public interest in frank communication outweighs the public interest in disclosure;

K. Records of any campaign committee, including committees that receive state money from state campaign fund are exempt from disclosure;

L. Records of Township security measures;

M. Documents concerning a civil action between a requesting party and the Township;

N. Records disclosing the social security number of any person;

O. Deprive a person of the right to a fair trial or important administrative adjudication; and

P. The information is submitted upon a promise of confidentiality by the public body.

IX. APPEALS

Within ten (10) days after receiving a written appeal, the Township Board shall:

A. Reverse the denial;

B. Issue a written notice upholding the appeal;

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

The ten (10) day time period shall commence on the date of the next regularly schedule Township Board meeting following receipt of the request.

X. A COPY OF THIS POLICY SHALL BE AVAILABLE AT THE TOWNSHIP CLERK'S OFFICE.

XI. REPEAL

All policies inconsistent with the provisions of this policy are hereby repealed.

XII ADOPTION DATE

Adopted at a regular meeting of the Porter Township Board January 13, 2009

XIII THE EFFECTIVE DATE OF THIS POLICY IS UPON PUBLICATION