

## Township FOIA Requests Frequently Asked Questions

### **Question: What is a usual FOIA Request in Township Government?**

**Answer:** The State Legislature specified certain public bodies and public records that are covered by FOIA. This list is not inclusive of all township records that must be available to the public, but is merely a partial statutory listing:

1. Building permit applications and documents (MCL 125.1510);
2. Construction board of appeals' decisions and documents (MCL 125.1514);
3. Township minutes, resolutions, and ordinances (MCL 41.66);
4. Township Treasurer's records of township expenditures, receipts, fund balances (MCL 41.78);
5. Township planning commission records (MCL 125.325) \*\*\*

### **Question: Can I make an oral FOIA request?**

**Answer:** You can – But, oral requests are not sufficient to mandate initiation of the FOIA process per PA 533, which deleted the reference to oral requests. Therefore, if an oral request is made and not answered, there is no recourse for the requestor or penalty to the township. \*\*\*\*

However, most township officials/employees/staff do their best to answer questions and provide information, even for oral requests. That being said, FOIA does not allow or require a “dialogue” with a public body in which a “question and answer” format is undertaken. FOIA is simply the request for a certain existing document or record. Sometimes it is best to call the office responsible for that record for assistance in determining what is available before your make your FOIA request. You may get your question answered over the phone or it may already be on the website!

### **Question: What minimum information must I include in my written FOIA request?**

**Answer: For clarity:** The request must include the requester's first and last name, physical address, and either a phone number or email address. Additionally, the request must provide enough information to identify the record being requested, so we can locate it. If a request does not include this information, the request will be rejected. Rejected requests will need to be resubmitted. \*

**Question: What additional information can I provide to ensure I receive the information I am seeking?**

**Answer:** Please provide as much specific detail about the record being requested. Information such as subject matter, incident date, type of complaint, type of license, or similar identifying information should be supplied with your request. If a request is too vague to identify the record being sought, your request will be denied. Requests can be broad as long as they are well-defined. \*

Examples of vague FOIA requests:

- “I am requesting all record of John Doe.”
- “I am requesting all records for complaint # XXXXXX.”

**Question: How long will it take to process my FOIA request and release the records to me?**

**Answer:** A requester will receive an initial response within five business days of the FOIA Coordinator receiving a written FOIA request (fax, email or in person\*\*\*\*). The FOIA Office may extend its initial response period by an additional ten business days with a reason provided for the extension. Depending on the records requested, the FOIA Office will make an initial estimate on the time frame to fulfill the request which can vary from as few as five business days to as much as multiple months. \* A request made by fax or email is not official received by the FOIA coordinator until 1 business day after the transmission is made. \*\*\*\*

**Question: Legally-required records must be produced under FOIA even if Township does not have them**

**Answer:** FOIA does not require a public body to create a document that does not exist in order to fulfill a request. Furthermore, the Board is under no obligation to retrieve the requested records from a service provider. \*\*

**Question: Can all emails between board members on Township’s email account be disclosed under FOIA?**

**Answer:** A FOIA request was made seeking all emails sent by board members on their public email system, even if the emails were of a personal nature. This FOIA request was denied, as personal records did not qualify as a public record.

The court found that emails sent on a public system must only be disclosed under FOIA if the messages were sent in furtherance of official duties. Therefore, any messages that are solely of a personal nature are not a public record, even if sent on a public system. This ruling has been interpreted to include text messages as well. \*\*

**Question: Can the FOIA fee be waived?**

**Answer:** Here is the statutory language: (4). A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

Many requestors will say that their fee should be waived in the public interest, but in reality, very few qualify. That is because we generally publish everything in the public interest (minutes, notices, agendas, etc.) So, if your request is for a specific situation (not for the public as a whole) or is very time consuming to compile, it is fair to expect a fee could be charged. As always, call the office responsible for that record for assistance in determining what is available before you make your FOIA request to make the most of your request.

\* [www.michigan.gov/documents/lara/foia-QA\\_664135\\_7.pdf](http://www.michigan.gov/documents/lara/foia-QA_664135_7.pdf)

\*\* [www.fsbri.com/2014/10/31/common-freedom-of-information-act-myths/](http://www.fsbri.com/2014/10/31/common-freedom-of-information-act-myths/)

\*\*\* MTA Township Clerk Manual – Pg. 81

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