

Charter Township of Kalamazoo

Public Summary of FOIA Procedures and Guidelines

1. Preamble: Statement of Principles

It is the public policy of the State of Michigan that all persons (except those persons 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, as amended, the following is the written Public Summary of the Township's FOIA Procedures and Guidelines relevant to the general public.

This is only a summary of the Township's FOIA Procedures and Guidelines. For more details and information, copies of the Township's FOIA Procedures and Guidelines are available at no charge at the Township office, located at 1720 Riverview Dr., Kalamazoo, MI 49004, and on the Township website at www.ktwp.org.

1. General Policies

2. Requesting a Public Record

How do I submit a FOIA request to the Township?

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed, or retained by the Charter Township of Kalamazoo must be submitted in writing.
- No specific form is required to submit a written request. However a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the Township's website at www.ktwp.org, and at the Township office at 1720 Riverview Dr., Kalamazoo, MI.
- A request must sufficiently describe a public record so as to enable the Township to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the Township in providing a prompt response.
- Written requests may be delivered to the Township Hall in person or by mail at the following address: 1720 Riverview Dr., Kalamazoo, MI 49004.
- Requests may be faxed to: (269) 381-3550. To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.
- Requests may be emailed to: foia@ktwp.org. To ensure a prompt response, email requests should contain the term "FOIA" or "FOIA Request" in the subject line.

3. Processing a Request

What kind of response can I expect to my request?

- Within 5 business days after receiving a FOIA request the Township will issue a response. If a request is received by fax or email, the request is deemed to have been received on the following business day. The Township 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 in part the request,
 - Issue a notice indicating that due to the nature of the request the Township needs an additional 10 business days to respond, or
 - Issue a written notice indicating that the public record requested is available at no charge on the Township's website
- If the request is granted, or granted in part, the Township 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 Township will require a deposit before processing the request.

4. Fee Deposits.

What are the Township's deposit requirements?

- If the FOIA Coordinator for the Township has made a good faith calculation that the total fee for processing the request will exceed \$50.00, the Township will require that you provide a deposit in the amount of 50% of the total estimated fee. When the Township requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.
- If the Township receives a request from a person who has not paid the Township for copies of public records made in fulfillment of a previously granted written request, the Township will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when all of the following conditions exist:
 - The final fee for the prior written request is not more than 105% of the estimated fee;
 - The public records made available contained the information sought in the prior written request and remain in the Township's possession;
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by the Township to provide the records;
 - Ninety (90) days have passed since the Township notified the individual in writing that the public records were available for pickup or mailing;
 - The individual is unable to show proof of prior payment to the Township; and

- The Township has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The Township will not require the 100% estimated fee deposit if any of the following apply:
 - The person making the request is able to show proof of prior payment in full to the Township;
 - The Township is subsequently paid in full for all applicable prior written requests; or
 - Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to the Township.

5. Calculation of Fees

How does the Township calculate FOIA processing fees?

The Michigan FOIA statute permits the Township to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the Township.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Township.
- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the township's website if you ask for the township to make copies.
- The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on the township's website if you ask for the township to make 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 any partial time increment rounded down. If the total time involved is less than 15 minutes, the township presumes that the request does not require extraordinary effort on behalf of the township staff and there will be no charge.

- Labor costs will be charged at the hourly wage of the lowest-paid Township employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. Township may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in 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 current state minimum hourly wage. This rate will change as the state minimum hourly wage changes.

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 Township. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the Township's usual FOIA requests, because of the nature of the request in the particular instance. The Township must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

The Township 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 discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the Township has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Paper Copies

- Paper copies of 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 will paper will reflect the actual cost of reproduction.

Mailing Costs

- The cost to mail public records will use a reasonably economical and justified means.

- The Township 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.

6. Waiver of Fees

Am I eligible for a waiver of FOIA 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 township board may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

a. How do I qualify for an indigence discount on the fee?

The Township will discount the first \$20.00 of fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

You are **not** eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the Township twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is sworn statement. For your convenience, the Township has provided an Affidavit of Indigence for the waiver of FOIA fees on the back of the Township FOIA Request Form, which is available on the Township website at www.ktwp.org.

b. May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is formally designated by the state to carry out activities under subtitle C of the Federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, may receive a \$20.00 discount if the request meets all of the following requirements in the Act:

- Is made directly on behalf of the organization or its clients.
- Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.

- Is accompanied by documentation of its designation by the state, if requested by the public body.

7. Public Inspection of Records

Upon receiving a request to inspect township records, the township shall furnish the requesting person with a reasonable opportunity and reasonable facilities for inspection and examination of its public records.

A person shall be allowed to inspect public records during usual business hours, not less than four hours per day. The public does not have unlimited access to township offices or facilities, and a person may be required to inspect records at a specified counter or table, and in view of township personnel.

Township officials, appointees, staff or consultants/contractors assisting with inspection of public records shall inform any person inspecting records that only pencils, and no pens or ink, may be used to take notes.

In coordination with the official responsible for the records, the FOIA coordinator shall determine on a case-by-case basis when the township will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

The FOIA Coordinator is responsible for identifying if records or information requested by the public is stored in digital files or e-mail, even if the public does not specifically request a digital file or e-mail.

A person cannot remove books, records or files from the place the township has provided for the inspection.

No documents shall be removed from the office of the custodian of those documents without permission of that custodian, except by court order, subpoena or for audit purposes. The official shall be given a receipt listing the records being removed. Documents may be removed from the office of the custodian of those documents with permission of that custodian to accommodate public inspection of those documents.

All property assessment rolls and property appraisal cards shall be available for public inspection and copying during the Township's customary business hours.

Copies May Be Required to Enable Public Inspection of Records

In coordination with the official responsible for the records, the FOIA coordinator will determine on a case-by-case basis when the township will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection. A fee shall be charged for copies made to enable public inspection of records, according to the township's FOIA policy.

8. Appeal of a Denial of a Public Record

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

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the Township Board by filing a written appeal of the denial with the office of the FOIA Coordinator.

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. You may use the Township FOIA Appeal Form (To Appeal a Denial of Records), which is available on the Township’s website: www.ktwp.org.

The Township Board is not considered to have received a written appeal until the first regularly scheduled Township Board meeting following submission of the written appeal. Within 10 business days of receiving the appeal the Township Board will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial;
- Reversing the disclosure denial in part and upholding the disclosure denial in part; or
- Extending the time for a response due to unusual circumstances.

Whether or not you submitted an appeal of a denial to the Township Board, you may file a civil action in County Circuit Court within 180 days after the Township's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys’ fees, costs and disbursements. If the court determines that the Township acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.

9. Appeal of an Excess FOIA Processing Fee

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

The appeal must specifically state the word “appeal” and identify how the required fee exceeds the amount permitted. You may use the Township FOIA Appeal Form (To Appeal an Excess Fee), which is available at the Township Hall and on the Township’s website: www.ktwp.org.

The Township Board is not considered to have received a written appeal until the first regularly scheduled Township Board meeting following submission of the written appeal. Within 10 business days after receiving the appeal, the Township Board 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; or
- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Township Board will respond to the written appeal.

Within 45 days after receiving notice of the Township Board'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 appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the Township acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500. (This paragraph from §11 Long Form Policies and Procedures).

Charter Township of Kalamazoo, Kalamazoo County
1720 Riverview Drive. Kalamazoo, Michigan 49004
Phone: (269) 567-7523 Email: foia@ktwp.org

Copies of the Township's FOIA procedures and guidelines, public summary, and forms are available on the Township website at www.ktwp.org.
Copies of these documents also are available free-of-charge at the Clerk's office, located at 1720 Riverview Drive, Kalamazoo, Michigan 49004.

FOIA Request for Public Records

Michigan Freedom of Information Act, Public Act 442 of 1976, as amended; MCL 15.231, et seq.

Please print or type, be sure to complete both sides of this form, and sign and date all applicable shaded areas.

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

Number of requests made to the Township within the last year _____

Request for: ☐ Copy ☐ Certified copy ☐ Record inspection ☐ Subscription to record issued on regular basis

Delivery Method: ☐ Will pick up ☐ Will make own copies onsite ☐ Mail to address above ☐ Email to address above

☐ Deliver on digital media provided by the township: _____

Note: The Township is not required to provide records in a digital format or on digital media if the township does not already have the technological capability to do so.

Describe the public record(s) requested as specifically as possible. You may use this form and/or attach additional sheets.

Consent to Non-Statutory Extension of Township's Response Time

I have requested a copy of records or a subscription to records or the opportunity to inspect records, pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, as amended, MCL 15.231, et seq. I understand that the township must respond to this request within five (5) business days after receiving it, and that response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the township's response time for this request until: _____ (month, day, year).

Requestor's Signature	Date
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Records Located on Website

If the township directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any labor charges to redact (*separate exempt information from non-exempt information*).

If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the township must notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed cost itemization form, the township must separate the requested public records that are available on its website from those that are not available on the website and must inform the requestor of the additional charge to receive copies of the public records that are available on its website.

If the township has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form, including digital media, the township must provide the public records in the specified format (if the township has the technological capability) but may use a fringe benefit multiplier greater than the 50%, not to exceed the actual costs of providing the information in the specified format.

Request for Copies/Duplication of Records on Township Website

I hereby stipulate that, even if some or all of the records are located on a township website, I am requesting that the township make copies of those records on the website and deliver them to me in the format I have requested above. I understand that some FOIA fees may apply.

Requestor's Signature	Date
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Overtime Labor Costs

Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.

Consent to Overtime Labor Costs

I hereby agree and stipulate to the township using overtime wages in calculating the following labor costs as itemized in the following categories:

1. ☐ Labor to copy/duplicate 2. ☐ Labor to locate 3a. ☐ Labor to redact 3b. ☐ Contract labor to redact
6b. ☐ Labor to copy/duplicate records already on township's website

Requestor's Signature

Date

Request for Discount: Indigence (If applicable)

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by an individual who is entitled to information under this act and who:

- 1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, **OR**
2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if **ANY** of the following apply:

- (i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year,
(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

I am submitting an affidavit and requesting that I receive the discount for indigence for this FOIA request:

Date:

Requestor's Signature

Request for Discount: Nonprofit Organization (If applicable)

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act, if the request meets **ALL** of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
(iii) Is accompanied by documentation of its designation by the state, if requested by the township.

I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its clients and is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931:

Requestor's Signature

Date:

Office Use Only

Receipt:

Date Received: _____

Check if received via: ☐ Email ☐ Fax ☐ Other Electronic Method

Date delivered to junk/spam folder: _____

Date discovered in junk/spam folder: _____

Party who discovered in junk/spam folder: _____

Request for Discount: Indigence

- ☐ Affidavit Received ☐ Eligible for Discount ☐ Ineligible for Discount
☐ Not Applicable. Reason _____

Request for Discount: Nonprofit Organization

- ☐ Documentation of State Designation Received ☐ Eligible for Discount ☐ Ineligible for Discount
☐ Not Applicable. Reason _____

Requests discounted for same party within previous 12-months _____ Response and records provided are attached _____

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FOIA Fee Waiver Affidavit of Indigency

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

I request a fee waiver in connection with a Freedom of Information Act request and provide the following information concerning my present financial status in support of my request:

1. PUBLIC ASSISTANCE: I am currently receiving public assistance because of indigency <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, please state the type of assistance and identify the government agency that provides it:	
2. RESIDENCE: \$ _____ per month <input type="checkbox"/> Rent <input type="checkbox"/> Mortgage <input type="checkbox"/> Room/Board <input type="checkbox"/> Live with Relatives	
3. MARITAL STATUS: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/> Dependents: _____ (number)	
4. INCOME: a. Employer name, address, and phone number	b. Length of Employment
	c. Average Pay <input type="checkbox"/> weekly <input type="checkbox"/> every two weeks <input type="checkbox"/> monthly Gross: \$ _____ Net: \$ _____
5. ASSETS: (state the value of car, home, bank deposits, bonds, stocks, etc. If no assets, write NONE.)	
6. OBLIGATIONS: (itemize monthly rent, installment payments, mortgage payments, child support, etc.)	

Signature: _____ Date: _____