

GRAND TRAVERSE COUNTY ROAD COMMISSION

FREEDOM OF INFORMATION PROCEDURES AND GUIDELINES POLICY

1. Purpose. It is the intent of this policy to provide clear-cut procedures for citizens and Grand Traverse County Road Commission officials in requesting and disclosing public records under the Michigan Freedom of Information Act (FOIA). The intent of this Procedures and Guidelines Policy (the “Policy”) is to comply in all respects with the FOIA, and the FOIA shall be deemed a part of this Policy. In the event of an unintentional conflict between this Policy and the FOIA, the FOIA shall control.

2. FOIA Coordinator. The Clerk of the Road Commission Board is hereby designated as the FOIA Coordinator. Pursuant to MCL 15.236(3), the FOIA Coordinator may designate another individual to act on their behalf in accepting and processing FOIA requests for the Grand Traverse County Road Commission. With the exception of Section 4 of this Policy, all Grand Traverse County Road Commission officials and employees receiving document disclosure inquiries shall immediately transfer them to the FOIA Coordinator or designee. All written requests for public records shall be forwarded to the FOIA Coordinator or designee to keep for no less than one year.

3. Procedure. With the exception of information requested described in Section 4 of this policy, all responses to requests for information under the FOIA shall be forwarded to and reviewed by the FOIA Coordinator or designee prior to responding to the request according to the following procedure:

- A. Requests to review and for copies of records under the FOIA shall be in writing and shall sufficiently describe the public record to enable the FOIA Coordinator or designee to identify the requested public record and shall include the name of the individual(s) or firm requesting the public records, mailing address, and telephone number. In the event that clarification is needed, the FOIA Coordinator or designee may send a notice requesting clarification of the request and such notice shall not be interpreted as a denial of the request. The requesting person agrees by submitting a FOIA request that the date that such clarification is provided shall be deemed the date of receipt of the request.
- B. Updates or revisions to any of the requested information will not be automatically supplied by Grand Traverse County Road Commission. A new written request must be made for any revisions or updated versions of the requested public record unless the requesting person has submitted a subscription request under Section (3)(1) of the FOIA for information that is created, issued, or disseminated on a regular basis.
- C. Requests shall be considered received if by mail on the date of receipt. The request shall be date-stamped by the Grand Traverse County Road

Commission. If the request is received by email or other electronic means, the request shall be received on the next business day. If the request is received by Grand Traverse County Road Commission in a junk email or spam account, the request shall not be received until one business day following the date that the Grand Traverse County Road Commission becomes aware of the request.

- D. Requests received in a junk mail or spam account shall be logged as to the date that the request was delivered to the junk mail or spam account and the date that Grand Traverse County Road Commission became aware of the request.
- E. The request shall immediately be forwarded to the FOIA Coordinator or designee.
- F. The FOIA Coordinator or designee shall distribute the request to all persons within the Grand Traverse County Road Commission who may maintain the records requested and such persons shall promptly return the information in their possession to the FOIA Coordinator or designee or provide written notice that they do not have any of the requested public records in their possession.
- G. The FOIA Coordinator or designee shall prepare the response, with review by counsel for the Grand Traverse County Road Commission when appropriate, and in the event that a request is denied in whole or in part, the FOIA Coordinator or designee shall sign the written notice of denial.
- H. The Grand Traverse County Road Commission is not obligated to create a record, list, compilation or summary of information that does not already exist. This includes analyzing, compiling, or summarizing existing information into a new format.
- I. In responding to requests, the Grand Traverse County Road Commission will utilize its best efforts to locate the public records requested. The Grand Traverse County Road Commission will search only the most likely locations, or in the case of a request for electronic public records, will utilize only normal and basic search tools for locating the public record(s) requested.
- J. The FOIA Coordinator shall respond within five (5) business days from the date that the Grand Traverse County Road Commission received the FOIA Request. The response may grant the request, deny the request, grant the request in part and deny the request in part, request clarification of the FOIA Request, request a deposit, or extend by not more than 10 business days the time to respond. The timeframes for responding may be extended by mutual agreement of the parties.

K. Any response to a FOIA Request shall include a copy of or a link to these Procedures and Guidelines and the Grand Traverse County Road Commission's Public Summary of its FOIA Process. A response shall also detail the Requester's appeal rights as set forth in these Procedures and Guidelines and the FOIA.

4. Exceptions.

A. Routine Information. The following requests for information from the Grand Traverse County Road Commission may be handled without a written FOIA Request:

- (1) A request for records that are routinely provided to the public by the Grand Traverse County Road Commission;
- (2) Records that are readily available, may not be exempted from disclosure under the FOIA, and exist at the time of the request.

The fees described in Section 7 shall be applicable to such requests.

B. Records on Website. The Grand Traverse County Road Commission maintains an official internet presence. All public records available to the general public on that site, <http://www.gtcrc.org/>, are available to the public at no charge. If a verbal request for information is for information that an employee or official of Grand Traverse County Road Commission believes is available on the website, the employee or official will endeavor to inform the requestor about the Grand Traverse County Road Commission's website address.

5. Rules to Prevent Excessive and Unreasonable Interference with Grand Traverse County Road Commission's Functions.

- A. Records may be personally examined only during normal business hours, i.e., between 7:30 am and 4:30 pm on regular business days.
- B. The Grand Traverse County Road Commission's officers, agents, or employees shall be given ample opportunity to review files for exempt or privileged records prior to allowing public examination.
- C. Personal inspection and examination shall be conducted by the requesting person in the presence of an employee or designated agent of the Grand Traverse County Road Commission and under the conditions the FOIA Coordinator or designee might require in order to prevent excessive and

unreasonable interference with Grand Traverse County Road Commission's functions.

D. In the event that the FOIA Coordinator or designee determines that a personal examination or inspection of the public record would cause excessive and unreasonable interference with Grand Traverse County Road Commission's functions regardless of any conditions imposed on the inspection and examination, the FOIA Coordinator or designee may deny a request to personally examine records within the time limits indicated in the FOIA provided that the nonexempt records are otherwise provided as required by the FOIA.

E. A requesting person may ask that the public records be provided by nonpaper physical media. The FOIA Coordinator shall provide such records to the requesting person by nonpaper physical media provided that doing so would not interfere with the Grand Traverse County Road Commission's functions by overloading the FOIA Coordinator's or the Grand Traverse County Road Commission's computer network and the Grand Traverse County Road Commission has the technological capability necessary to provide the records on the media requested.

F. A requesting person shall not be permitted to personally monitor the Grand Traverse County Road Commission's examination, review, or search for the public record requested or the Grand Traverse County Road Commission's deletion and separation of exempt from non-exempt material

6. **Rules to Protect Records.** To protect records from loss, unauthorized alteration, mutilation or destruction, the following rules are adopted to protect the records of the Grand Traverse County Road Commission in the event of personal examination or inspection by the requesting person.

A. Records are to remain at the location provided for review of the records by the FOIA Coordinator while being reviewed.

B. Records are not to be altered in any manner.

C. Pens are not allowed in record review rooms.

D. Copies of records are to be made by Grand Traverse County Road Commission's staff or its designee. Copy charges for such records shall apply.

E. For documentation purposes, the Grand Traverse County Road Commission shall keep copies of or a list of documents released or copied.

- F. Records may not be removed by the requesting person from binders.
- G. Records within files shall be kept intact and in order.
- H. Copies of Grand Traverse County Road Commission's computer records shall be made by the Grand Traverse County Road Commission on the most reasonably economical media provided by Grand Traverse County Road Commission. Due to the significant risk of alteration of computer files, a requesting person shall not be allowed to personally examine or inspect the Grand Traverse County Road Commission's electronic records, including, but not limited to, files on the Grand Traverse County Road Commission's computer network or the email accounts of a Grand Traverse County Road Commission's officer, board member, or employee.
- I. Copies of tapes shall be made by the Grand Traverse County Road Commission on tapes provided by the Grand Traverse County Road Commission.
- J. Records to be copied may be identified by the requesting person by tape flags or sticky notes, by separate written description, or by inserting loose paper between pages.
- K. Copyrighted material shall not be photocopied.
- L. The FOIA Coordinator may require that the requesting person's inspection and examination of the public records be monitored by an employee or agent of the Grand Traverse County Road Commission.

7. Fees.

- A. Copies.
10 cents per 8.5" x 11" or 8.5" x 14.
Actual cost per page for larger prints.
Computer discs - current cost.
Tapes - current cost.
If duplication requires outside services as determined by the FOIA Coordinator, and provided that such method is the most economical method - actual cost.
- B. Faxing. Actual cost.
- C. Mailing. Actual mailing, packaging and transportation costs shall be charged provided that such method is the most economical method and may include a charge for the least expensive form of postal delivery confirmation. No charge may be made for expedited shipping or insurance unless agreed to by the requester.

D. **Labor.**

Duplication and Publication.

Records Not Available on Website. The labor cost of the lowest paid employee, plus 50% to cover or partially cover the cost of fringe benefits, capable of duplicating and publishing the records, including making paper copies, digital copies, transferring digital public records to be provided or conveyed through the internet or other electronic means.

Records Available on Website. No charge unless the requester requests the record in a different format other than as published on website. In that case, the labor cost of the lowest paid employee, plus 50% to cover or partially cover the cost of fringe benefits, capable of duplicating and publishing the records, including making paper copies, digital copies, transferring digital public records to be provided or conveyed through the internet or other electronic means.

Labor costs for duplication and publication shall be charged in time increments of 5 minutes and all partial time increments shall be rounded down to the nearest time increment.

Search, Location, and Examination. When it is determined that the cost of search, examination, review, and redaction would result in unreasonably high costs to Grand Traverse County Road Commission, the labor cost of the lowest paid employee, plus 50% to cover or partially cover the cost of fringe benefits, capable of searching for, locating, and examining the public records.

The following factors shall be used to determine an unreasonably high cost to the Road Commission:

- Volume of the public record requested.
- Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
- Whether the public records required to respond are located within several locations.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

Labor costs shall be charged in time increments of 15 minutes and all partial time increments shall be rounded down to the nearest time increment.

Separation and Deletion of Material. The labor cost of the lowest paid employee, plus 50% to cover or partially cover the cost of fringe benefits, capable of separating and deleting exempt material. If no employee is capable of separating and deleting exempt information in a particular instance as determined by the FOIA Coordinator, Grand Traverse County Road Commission may charge for contracted labor for the separation and the deletion in an amount equal to actual costs or 6 times the State current minimum hourly wage, whichever is less.

In the event that the FOIA Coordinator anticipates that fees shall be charged for separation and deletion of material, the FOIA Coordinator shall provide the requesting person an estimate of the fees. Labor costs shall be charged in increments of 15 minutes and all partial time increments shall be rounded down to the nearest time increment.

Overtime. Overtime wages shall not be included in the calculation of any labor costs unless overtime is specifically agreed to by the requesting person.

- E. Public Records Routinely Authorized for Sale. Current fee schedule or cost.
- F. Costs set by Law. Documents which are required to be prepared and sold for a specific fee under Michigan or federal law shall be sold in accordance with the applicable Michigan or federal law.

The FOIA Coordinator or their designee is authorized to establish such other fees and charges in situations not covered by this policy, including fees and charges incurred by the Grand Traverse County Road Commission in connection with allowing the requesting person to personally examine the records, which may include employee or staff time to monitor or assist the requesting person in reviewing the records if such monitoring or assistance causes an excessive or unreasonable interference with the Grand Traverse County Road Commission's functions.

All estimates or fees charged shall be itemized on the standard form for detailed itemization adopted by the Grand Traverse County Road Commission. The FOIA Coordinator shall utilize the most economical means of providing copies of public records that the FOIA Coordinator has the technological capability for. This shall include making double sided copies, utilizing the most economical electronic medium for copying the records the FOIA Coordinator has the technological capability for, and providing the records in the form requested by the requester when the FOIA Coordinator is capable of accommodating the request and doing so would not interfere with the Grand Traverse County Road Commission's functions or cause damage to the records.

The requesting person shall pay for the public records prior to receipt of the public records. In the event that the requesting person fails to pick up the public records requested, the FOIA Coordinator shall retain a copy of the FOIA response and records compiled for at least 365 days from the date of the request.

Any fees shall be reduced by 5% per day up to a maximum of 50% for every day past the deadline to respond within the time periods established by the FOIA and these Procedures and Guidelines for every request properly designated as a request for records under the FOIA.

8. Deposits.

50% Deposit. The FOIA Coordinator may require a deposit from the person requesting the public record or series of public records if the fees will exceed \$50.00. The deposit shall not exceed one-half of the total fee for the request.

100% Deposit. The FOIA Coordinator may require a 100% deposit if the FOIA request is from a requester who has not paid for a previous FOIA fee in full to the public body. However, this 100% may be charged only if all of the conditions are present:

1. The prior fee was not more than 105% of the estimated fee.
2. The records from the prior request both contain all of the records requested in the prior request and are still in the public body's possession.
3. The records were offered to the requester by the public body subject to payment of the fees.
4. At least 90 days have passed since the records were offered in writing to the requester.
5. The requester cannot show proof of prior payment and continues to fail to pay for the prior request.
6. A detailed itemization form has been prepared for the current request.
7. Not more than 365 days have passed since the requester made the request for the request that has not been paid.

Any request for a deposit must include: (1) a detailed itemization of an estimate of the fees, (2) Grand Traverse County Road Commission's Freedom of Information Act Procedures and Guidelines or a link to the Procedures and Guidelines, (3) the Grand Traverse County Road Commission's Public Summary of its Procedures and Guideline or a link to the Public Summary, and (4) an estimate of how long it will take the Road Commission to provide the records to the requester following receipt of the deposit.

If a deposit is requested, the date of receipt of the deposit shall be deemed to be the date of receipt of the FOIA Request and the requesting person expressly agrees to this by submitting a FOIA request.

9. Fee Waivers.

- A. Indigency. The first \$20.00 of any fee shall be waived for any person who is indigent. In order to demonstrate indigency, an individual must submit an affidavit specifying that the individual is indigent, receiving some type of public assistance or otherwise demonstrates their inability to pay, they have not received a fee waiver twice in the same calendar year as the request, and the individual is not requesting information on behalf of someone that is paying them to request the public records.
- B. Certain Non-Profits. The first \$20.00 of any fee shall be waived for nonprofit corporations that are designated by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 or the Protection and Advocacy for Individuals with Mental Illness Act if the request is made on behalf of the organization or its clients, is made for a reason wholly consistent with the mission of the provisions of the Mental Health Code, and is accompanied by documentation of its designation by the State.
- C. Documents on Website. A fee shall not be charged for any public records requested that are available to the general public on the Grand Traverse County Road Commission's internet site. If the information or a portion of the information requested is available on the Grand Traverse County Road Commission's website, the FOIA Coordinator shall notify its availability on the website and shall include, to the extent practicable, the webpage address of the information. In the event that requester requests the information in another form, Grand Traverse County Road Commission may charge the fees set forth in the policy for providing such records.
- D. Public Interest. 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 Road Commission Board 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. The decision to waive the fee under this provision is completely discretionary with the Road Commission Board. Generally, such waivers will not be provided where the person requesting the information will be receiving directly or indirectly a financial benefit from the information provided regardless of whether the information has some public interest.

10. Appeals.

A. Response to Request.

Head of Public Body. A requesting person, before filing an appeal with the Circuit Court pursuant to Section 10 of the FOIA, may file a written appeal to the Road Commission Board identifying the reason or reasons for reversal of the denial. The

Road Commission Board shall respond to the written appeal not more than 10 business days after receiving a written appeal. The Road Commission Board shall be considered to receive the appeal at its next regular meeting following the filing of the written appeal.

The Road Commission Board may take any of the following actions in response to the filing of an appeal:

- a. Reverse the denial.
- b. Issue a written notice to the appellant affirming the denial.
- c. Reverse the denial in part and issue a written notice to the appellant affirming the denial in part.
- d. If necessary due to unusual circumstances, issue a notice extending for not more than 10 business days the period during which the Road Commission Board may respond to the appeal.

B. Fees.

Head of Public Body. A requesting person, before filing an appeal with the Circuit Court pursuant to Section 10A of the FOIA, may file a written appeal of the fees charged by Grand Traverse County Road Commission to the Road Commission Board for a fee reduction identifying the reason or reasons the required fee exceeds the amount permitted under the FOIA and these Procedures and Guidelines. The Road Commission Board shall respond to the written appeal not more than 10 business days after receiving a written appeal. The Road Commission Board shall be considered to receive the appeal at its next regular meeting following the filing of the written appeal.

The Road Commission Board may take any of the following actions in response to the filing of an appeal:

- a. Waive the fee.
- b. Reduce the fee and issue a written determination indicating the basis of support for the remaining fee. The determination shall include a certification that the statements in the determination are accurate and the fee complies with these Procedures and Guidelines and the FOIA.
- c. Uphold the fee and issue a written determination indicating the basis of support for the fee. The determination shall include a certification that the statements in the determination are accurate and the fee complies with these Procedures and Guidelines and the FOIA.

- d. Issue a notice extending for not more than 10 (10) business days the period during which the Road Commission Board must respond to the appeal, including a detailed reason why the extension is necessary.

11. Exemptions. The FOIA Coordinator is authorized to exempt from disclosure a public record pursuant to Section 13 of the FOIA as allowed by and pursuant to the FOIA, and on appeal, the Road Commission Board is authorized to so exempt a public record.

12. Availability to Public. These Procedures and Guidelines and the Public Summary shall be available to the public at no cost. If the Grand Traverse County Road Commission maintains a website, the Procedures and Guidelines and the Public Summary shall be posted on Grand Traverse County Road Commission's website.

These Procedures and Guidelines shall supersede and replace the Grand Traverse County Road Commission's FOIA Policy Adopted _____ as of July 1, 2015, and shall become effective on July 1, 2015.

I hereby certify that the above Procedure and Guidelines were adopted on, _____, 2015, at a meeting of the Grand Traverse County Road Commission Board held in the Commission Chambers, 1881 LaFranier Road, Traverse City, Michigan.

Rene Hills
Clerk