

# **GRAND TRAVERSE COUNTY ROAD COMMISSION**

## **FREEDOM OF INFORMATION ACT PUBLIC SUMMARY**

The purpose of this document is to provide a summary of Grand Traverse County Road Commission's Freedom of Information process, fees, and information regarding filing an appeal of the Grand Traverse County Road Commission's response and fees charged.

### Filing a Freedom of Information Act Request with Grand Traverse County Road Commission.

In order to file a Freedom of Information Act (FOIA) request with Grand Traverse County Road Commission, a person needs to file a written request with the FOIA Coordinator, who is the Clerk of the Board. The FOIA Coordinator's contact information is [kcarpenter@gtrc.org](mailto:kcarpenter@gtrc.org), fax (231) 929-1836, or 1881 Lafranier Road, Traverse City, Michigan 49686. The request should clearly designate that the documents requested are being requested pursuant to the FOIA.

Your request will be considered received on the date of receipt by the FOIA Coordinator if by mail, on the date after the email or the fax transmission if the request is forwarded to the FOIA Coordinator by those mediums. If for some reason the FOIA request is sent to the Grand Traverse County Road Commission's junk mail account, the request will not be considered received until the request is discovered by the Grand Traverse County Road Commission.

If you would like to request records that are created, issued, or disseminated on a regular basis by Grand Traverse County Road Commission, you will need to designate your request as a "subscription" for such records.

In requesting records, you may ask for copies of records or to search and examine the Grand Traverse County Road Commission's records. All timelines and fees will apply to either request.

If you ask to personally search and examine Grand Traverse County Road Commission's records, there are certain rules that have been established in order to prevent interference with the functions of Grand Traverse County Road Commission and to protect the records themselves. These include restrictions on the times the records may be available for examination, the need for an employee or agent of Grand Traverse County Road Commission to be present during the examination, and prohibitions on altering, removing, or moving the records.

Under some circumstances, a personal examination may be impossible, such as a personal examination of Grand Traverse County Road Commission's computer or electronic files. In those cases, you will be provided a copy of the records requested. In no case, will you be allowed to observe or examine the Grand Traverse County Road Commission's search for, examination, review, or deletion and separation of exempt material.

You may also request the records in certain forms. If you would like your request to be provided in a particular form, please provide this information in your request. The Grand Traverse County Road Commission's "default" method of supplying copies of records will be

paper copies. These requests will be accommodated by Grand Traverse County Road Commission to the extent Grand Traverse County Road Commission is feasibly capable of accommodating the request.

There are times when the information or records you are seeking do not require a FOIA request. These include requests for information or records routinely given and readily available that do not contain information that may be exempted under the FOIA as well as any and all records available on Grand Traverse County Road Commission's website, [www.gtcrc.org](http://www.gtcrc.org), provided that you access such records and print them yourself.

### Responding to Your Request.

Once a FOIA Request is received by the Grand Traverse County Road Commission, the FOIA request will be immediately forwarded to the FOIA Coordinator who will then forward the request to all people within the Grand Traverse County Road Commission that could or should have information or records responsive to the request. In looking for records, the Grand Traverse County Road Commission will utilize its best efforts to locate the public records requested. In doing so, the Grand Traverse County Road Commission will search the most likely locations for such records. When electronic records are requested, the Grand Traverse County Road Commission will utilize normal and basic search tools for locating the public records.

Sometimes, the FOIA Coordinator may need clarification regarding the public records requested. In this event, the FOIA Coordinator will contact you to ask for such clarification. The date upon which such clarification is provided will be considered the date that the request is received for purposes of the timelines set forth in the FOIA.

The FOIA Coordinator will respond to your request by granting the request, extending the time to respond, granting your request in part and denying in part, or denying your request. If your request is partially or wholly denied, the FOIA Coordinator will indicate in the response the reason for the denial or partial denial.

The FOIA Coordinator will respond to your request within the timelines provided by the FOIA, which is five (5) business days from the date of receipt. Sometimes, due to the nature of the request, the FOIA Coordinator may need to extend this time by 10 business days from the minimum five (5) business days. In the event that this happens, the FOIA Coordinator will provide you notice of this extension not later than 5 business days from the date the request was received. These timelines may be extended by mutual written agreement between you and Grand Traverse County Road Commission.

Each response shall include a link to the Grand Traverse County Road Commission's FOIA Procedures and Guidelines and this Summary as well as a copy of a detailed itemization of the fees charged.

Please note, in responding to a request, the Grand Traverse County Road Commission is not obligated to create a record, list, compilation, or summary of information that does not already exist.

### Fees.

In most cases, you will likely be charged a fee for your request. Generally speaking, the fees charged will be the actual cost to the Grand Traverse County Road Commission to respond to your request, including copying, faxing, and mailing costs. In charging these costs, the Grand Traverse County Road Commission will utilize the most economical method possible, such as double sided copying or the most inexpensive form of media the Grand Traverse County Road Commission is capable of utilizing.

Labor costs will also be charged. This includes labor for copying and transferring the records to a medium for your review. This also may include labor for searching, locating, and examining the public records where the request requires more time than usual to process the request. Factors that will be used to determine whether labor for searching, locating, and examining public records will be charged include 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 from various Road Commission departments or offices are necessary to respond to the request, available staffing to respond to the request, or any other similar factors identified by the FOIA Coordinator in responding to the particular request. The labor costs charged will be the hourly wage of the lowest paid employee capable of performing the work regardless of who did the work plus 50% to cover or partially cover fringe benefits.

Labor costs for separating and deleting exempt material may also be charged in the amount indicated above in the event that it will take more time than usual to process the request. However, sometimes it is necessary for the Grand Traverse County Road Commission to engage a third person to do this work. In this case, you may be charged the lesser of the actual cost or six (6) times the State current minimum wage. Before being charged this amount however, we will let you know and provide you an estimate of the fees.

Overtime will not be charged unless you agree.

We will require you to pay the fees before providing you with the public records requested where you have requested copies of the record either in paper or other electronic form. Where you have requested examination, payment of the fees will be expected prior to your examination for any fees incurred up to that point and following your examination and prior to receiving any copies of public records requested during the examination.

### Information Available on Website.

If you request in writing or verbally any records that are available on the Grand Traverse County Road Commission's website, we will let you know where such records may be located. You will not be charged a fee for such information or records unless you request that the FOIA

Coordinator provide you a copy of these records. In that case, you will be charged the hourly wage of the lowest paid employee capable of performing the work regardless of who did the work plus 50% to cover or partially cover fringe benefits.

#### Deposits.

Sometimes it is necessary for us to ask for a deposit prior to proceeding with the request due to the estimated time and material in responding to the request. We may request a deposit in the event that the estimated fees will exceed \$50.00 in the amount of 1/2 of the estimated fees. Any request for a deposit will include a detailed itemization of the expected fees and costs, an estimate of how long it will take to fulfill the request, and an invitation to narrow or clarify your request, which may result in a reduction of the fees.

We also may request a 100% deposit in certain circumstances where you have not paid for prior FOIA requests. Before requesting a 100% deposit, we will provide you an opportunity to pay for the prior FOIA request and any request will include the information stated above.

When a deposit is requested, we will not consider the request received under the FOIA until the deposit is made.

#### Fee Waivers.

There are several circumstances where the fees may be waived. These include demonstrated indigency, requests from certain non-profits, documents located on the Grand Traverse County Road Commission's website, and where the Grand Traverse County Road Commission 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.

There are certain requirements that must be met to qualify for the indigency waiver and such waiver only applies to the first \$20.00 in fees. In order to qualify for the indigency waiver, you will be required to execute an affidavit indicating your inability to pay, that you have not already received two fee waivers in the past year, and that you are not requesting information on behalf of someone that is paying you to request the records.

There is a limited class of nonprofits that qualify for a waiver and, again, the waiver only applies to the first \$20.00 in fees.

A fee for records available on the Grand Traverse County Road Commission's website will not be charged unless you ask the FOIA Coordinator to provide them in another form. In that case, the cost for covering or partially covering fringe benefits that will be added is 50%.

A "public interest" waiver is completely discretionary with the public body. 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.

### Exempt Information.

Sometimes information that you have requested will contain information that is exempt from disclosure under the FOIA. There are several exemptions under the FOIA. Unless certain information is required to be exempted under the FOIA, the FOIA Coordinator will determine in each case whether information that may be exempted under the FOIA will be exempted under the FOIA. In the event that some information contained in the records is exempt, but other information is not exempt, the public body will only remove those portions of the records that are exempt.

### Appeals.

You may appeal the FOIA Coordinator's response to your FOIA request or the amount of fees charged by the Grand Traverse County Road Commission. Please note, if you file an appeal with the Road commission Board, the Board is not considered to have received the appeal until its next regularly scheduled meeting following the Road Commission's receipt of your appeal.

### Response.

You may appeal the FOIA Coordinator's response either to the Road Commission Board or the Circuit Court. If you are going to appeal to the Road Commission Board, you must do so in writing. You should indicate that it is a "FOIA response appeal" and the reason you are appealing the FOIA Response. The Road Commission Board will respond within 10 business days of receipt by doing one of the following:

1. Reverse the denial.
2. Uphold the denial.
3. Reverse the denial in part and uphold the denial in part.
4. Issue a notice extending for not more than 10 business days the time period for the head of the public body to respond.

You may also appeal to the Circuit Court in Grand Traverse County. However, the appeal must be filed within 180 days following the Grand Traverse County Road Commission's final decision to deny or deny in part the request. If you prevail at the Circuit Court, the Circuit Court can order any records it determines to be improperly withheld to be disclosed. If you prevail in an action commenced in the Circuit Court, the Circuit Court will award you your reasonable attorney's fees. If you prevail in part, you may be awarded some of your attorney fees. If the Circuit Court finds that the Grand Traverse County Road Commission acted arbitrarily and capriciously in failing to disclose the records as required by the FOIA and the Grand Traverse County Road Commission's Procedures and Guidelines, the Court shall order the Grand Traverse County Road Commission to pay a civil fine of \$1,000 to the general fund of the state

treasury. In addition, the court shall award actual or compensatory damages and punitive damage in the amount of \$1,000 to you.

#### Fees.

You may appeal the fees charged to the Road Commission Board. You must do so in writing. You should indicate that is a “fee appeal” and you should state the reasons you believe the fees do not comply with the FOIA or the Grand Traverse County Road Commission’s Procedures and Guidelines. The Road Commission Board will respond within 10 business days of its receipt by doing one of the following:

1. Waive the fee.
2. Reduce the fee.
3. Uphold the fee.
4. Extend the time to respond by not more than 10 business days.

If the Road Commission Board reduces the fee or upholds the fee, the Road Commission Manager will provide you a certification that the determination is accurate and the fee complies with the Grand Traverse County Road Commission’s Procedures and Guidelines.

You may also appeal to the Circuit Court in Grand Traverse County. You may not appeal to the Circuit Court until after the Road Commission Board makes a determination on your appeal. The appeal must be filed within 45 days after the Road Commission Board makes a determination with respect to your appeal. If the Court determines that the Grand Traverse County Road Commission charged a fee in excess of the amount authorized by the FOIA or its Procedures and Guidelines, the Court will reduce the fee to a permissible amount. If the fee is reduced by 50% or more, the Court may, but is not required to, award you your attorney fees, costs, and disbursements. If the Court finds that the Grand Traverse County Road Commission acted arbitrarily and capriciously in charging an excessive fee, the Court will order the Grand Traverse County Road Commission to pay a civil fine of \$500 to the state general fund. The Court may also award punitive damages in the amount of \$500 in addition to actual and compensatory damages.

#### Willful and Intentional Violations.

If the Circuit Court finds in any action brought under the FOIA, that the Grand Traverse County Road Commission acted willfully and intentionally in failing to comply with the FOIA, the Court shall order the payment of a civil fine of not less than \$2,500 or more than \$7,500 for each occurrence in addition to any other money the Grand Traverse County Road Commission is ordered to pay. This fine will go into the State’s general fund.