

ROAD COMMISSION FOR OAKLAND COUNTY
FOIA POLICY, PROCEDURES AND GUIDELINES PUBLIC SUMMARY

The Road Commission for Oakland County (“RCOC”) is committed to complying with requests for public records in accordance with the provisions of the Michigan Freedom of Information Act (FOIA). All FOIA requests will be processed according to the requirements of FOIA and RCOC’s Policy, Procedures and Guidelines. This document is a summary of RCOC’s Policy, Procedures and Guidelines, which can be found at www.rcocweb.org.

RECORDS

- Public records may be available on RCOC’s website without charge.
- Certain types of public records are exempt from disclosure under FOIA.

REQUESTS AND RESPONSES

- FOIA requests should be made in writing and should describe the record(s) sought sufficiently enough for RCOC to find it. It is also helpful to provide a phone number and/or email address so that, if necessary, RCOC can contact the requester to clarify a request.
- FOIA requests can be sent by mail, email, or fax to any RCOC department that may possess the record(s) sought, to the attention of “FOIA Coordinator.”
- RCOC will respond to a request within 5 business days after receipt by granting, denying, partially granting and partially denying, or extending for up to 10 business days the amount of time for granting or denying a request.
- If RCOC denies all or part of a request, it will explain the reason for doing so in its written response.

FEES

- RCOC may charge a fee for fulfilling a FOIA request. RCOC may also require a 50% good-faith deposit if an estimated fee exceeds \$50.00.
- When charging a fee or requiring a deposit, RCOC will provide the requestor with a detailed itemization of the charges using RCOC’s standard FOIA invoice form.
- The charges will comply with RCOC’s Policy, Procedures and Guidelines and FOIA.

APPEALS

- FOIA denials may be appealed to the Board of County Road Commissioners or by commencing a civil action.
- The amount charged for a FOIA fee may be appealed to the Board of County Road Commissioners. A civil action regarding a FOIA fee may not be commenced unless the requestor first appealed the fee to the Board of County Road Commissioners.

ROAD COMMISSION FOR OAKLAND COUNTY
FOIA POLICY, PROCEDURES AND GUIDELINES

Road Commission for Oakland County (“RCOC”) is committed to complying with requests for public records in accordance with the Michigan Freedom of Information Act, MCL 15.231 *et seq* (FOIA). Current laws, rates, and factors are subject to change. If there are any discrepancies between this document and the actual law, the provisions of the law govern.

1. Availability of Policy, Procedures and Guidelines, and Its Summary

Online. This FOIA policy, procedures and guidelines, and its summary, can be found on RCOC’s website, www.rcocweb.org.

Upon Request. Visitors to RCOC offices may request a free paper copy of the FOIA policy, procedures and guidelines.

With FOIA Response. When responding to a FOIA request, RCOC will either provide a free copy or include the website link to these documents in its FOIA response.

2. Records Under FOIA

Subject to Disclosure. Records that are prepared, owned, used, in the possession of, or retained by RCOC in the performance of an official function are subject to disclosure under FOIA. Computer software is not subject to disclosure.

Not Required to Create New Record. RCOC is not required to create a new record, including any compilation, summary, or report of information that does not already exist.

Exemptions. RCOC may exempt a record (or part of a record) from disclosure if it falls under one of the exemptions listed in MCL 15.243.

3. FOIA Requests

Who May Request. An individual, corporation, Limited Liability Company, partnership, firm, organization, association, governmental entity, or other legal entity may make a FOIA request. An individual serving a sentence of imprisonment in a state, county, or federal correctional facility may not make a FOIA request.

FOIA Coordinator. RCOC Clerk’s office has been designated as the FOIA Coordinator for all RCOC departments and the Board of County Road Commissioners of the County of Oakland. FOIA requests made to the Clerk’s office may be mailed to the Clerk of the Board, FOIA Coordinator, 31001 Lahser Road, Beverly Hills, MI. 48025, faxed to (248) 645-1349, or emailed to smiller@rcoc.org.

How to Request. FOIA requests must be made in writing and describe the record(s) with enough particularity for RCOC to locate the record(s). In addition, please provide a phone number and/or email address so that, if necessary, RCOC can contact the requester to clarify a request. FOIA requests can be sent by mail, email, or fax to any RCOC department that may possess the record(s) sought, to the attention of FOIA Coordinator.

Receipt of Request by RCOC Employee. If an RCOC employee receives a verbal request for information that, to the best of the employee's knowledge is available on RCOC's website, the employee must inform the requestor of this and provide the website address. If an RCOC employee receives a written FOIA request, he or she must promptly forward it to the FOIA Coordinator.

Requests Delivered to Spam/Junk-Mail. An emailed FOIA request delivered to a spam/junk-mail folder is not received by RCOC until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator will keep a record of the time that the request was delivered and the time that the FOIA Coordinator first became aware of the request.

Retention. The FOIA Coordinator will keep a copy of all written FOIA requests on file for at least one year.

4. FOIA Responses

Generally. RCOC will respond to a FOIA request within five business days after it receives the request by doing one of the following:

- Granting the request.
- Issuing a written notice to the requesting person denying the request.
- Granting the request in part and denying the request in part.
- Issuing a notice extending for not more than ten business days the amount of time RCOC may take to grant or deny the request. RCOC will not issue more than one extension per request. RCOC will also indicate in the notice the estimated amount of time for granting or denying the request.

Redactions. If a record contains material that is not exempt from disclosure as well as material that is exempt from disclosure, RCOC will separate the exempt and nonexempt material and provide the requestor with the non-exempt material.

Denials. If RCOC denies all or part of a FOIA request, it will issue a signed, written notice that provides:

- The reason under FOIA, or other statute, for the denial.
- If no record exists, a statement that the record does not exist under the name given by the requester or by another name reasonably known to RCOC.
- If RCOC provides only part of a record, a general description of the material redacted, unless doing so would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

An explanation of a requestor's further rights as indicated in MCL 15.235(d) and (e).

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Providing Record Electronically. RCOC will provide a record electronically if asked by the FOIA requestor and the RCOC department possesses the technological capacity to do so.

5. FOIA Fees

Invoice. RCOC may charge a fee for fulfilling a FOIA request. RCOC may also require a 50% good-faith deposit if an estimated fee exceeds \$50.00. When charging a fee or requiring a deposit, RCOC will provide the requestor with a detailed itemization of the charges using RCOC's standard FOIA invoice form.

Standard Fees. Unless fulfilling a FOIA request will result in unreasonably high costs to the RCOC, or otherwise permitted by law, RCOC shall only charge for:

- The actual and most reasonably economical cost of computer discs, computer tapes, or other digital media storage devices for records provided electronically.
- Paper copies of records, which will not exceed 10 cents per page for standard sized paper. RCOC will use the most economical means available for making paper copies, including using double-sided printing.
- Mailing costs, which may include the least expensive form of postal delivery confirmation. RCOC will not charge for expedited shipping or insurance unless the requestor asks for expedited shipping or insurance.

Fees related to unusually high costs to RCOC.

- RCOC may charge labor fees for (1) searching for, locating and examining of public records, or (2) the cost of the deletion and separation of exempt information from non-exempt information, if failure to charge a fee would result in unreasonably high costs to RCOC because of the nature of the request in the particular instance, and RCOC specifically identifies the nature of these unreasonably high costs. The FOIA coordinator has authority to determine when the costs are unreasonably high in a particular instance, including, but not limited to, instances when the costs would be excessive and beyond the normal or usual amounts for responding to a request. In doing so the FOIA Coordinator may take into account considerations such as the volume and complexity of the FOIA request as well as the RCOC's particular fiscal condition at the time of the request or any other conditions authorized by law.
- The labor costs for searching, locating, examining, and redacting public records. RCOC will not charge more than the hourly wage of its lowest-paid employee capable of performing these tasks, and may apply up to a 50% fringe benefit multiplier. RCOC will calculate these labor costs using time increments of 15 minutes or more, with all partial time increments rounded down. RCOC will not charge for redacting if it previously redacted the record and the redacted version is still in RCOC's possession.
- The labor costs for copying or printing records, and for transferring records to an electronic format. RCOC will not charge more than the hourly wage of its lowest-paid employee capable of performing these tasks and may apply up to a 50% fringe benefit multiplier. RCOC will calculate these labor costs using time increments of 15 minute or more, with all partial time increments rounded down.

Record Already on Website. If RCOC knows that a requested record is available on its website, it will send a written response that notifies the requestor of this fact and provides the specific webpage address for the record. RCOC will not charge any fees for this, but will indicate in its response what the fee would be if the requester wants a copy either printed or in an electronic format. RCOC will provide a copy of the record upon request and for the fee, which may include a 50% fringe benefit multiplier for any labor costs.

Fee Reduction for Late Response. If RCOC provides a late response, it will reduce labor costs by 5% for each day late, with a maximum 50% reduction. RCOC will indicate the reduction in an invoice to the requestor, using RCOC's standard FOIA invoice form.

Effect of Non-Payment. If (1) an individual does not fully pay for records that RCOC made available on time, subject to payment, (2) 90 days have passed since RCOC notified the individual in writing that the records were available, (3) RCOC provided an estimate for the request, and (4) the final fee did not exceed 105% of the estimated fee, then for the next 365 days after the first request was made, RCOC may require a 100% estimated fee deposit before it commences to fulfill another request from that individual. RCOC will no longer require a 100% estimated fee deposit if it is subsequently paid in full for the first request.

Fee Waivers. RCOC may provide records without charge, or at a reduced charge, if it determines that doing so is in the public interest. RCOC will also waive the first \$20.00 of a fee if:

- An individual who is entitled to information under this act submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigence. RCOC will note the \$20 discount on the FOIA Response Invoice. If a requestor is ineligible for the discount, RCOC will explain to the requestor the reason for ineligibility in its written response. A requestor is ineligible if: (1) RCOC has already provided the requestor with discounted copies of public records twice during that calendar year, or (2) the request is made in conjunction with outside parties who are offering or providing payment to the individual to make the request. RCOC may require the requestor to provide an affidavit stating that the request is not being made in conjunction with outside parties in exchange for payment.
- The requestor is 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, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, if the request meets all of the following: (1) is made directly on behalf of the organization or its clients, (2) 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, and (3) is accompanied by documentation of its designation by the state, if requested by RCOC.

6. FOIA Appeals

Appeal of FOIA Denial. Denial of a FOIA request may be appealed to the head of the public body that denied the FOIA request.

- For appeals, the requestor should submit a written appeal that specifically states the word "appeal" and identifies the reason(s) for reversal. Within ten business days after receiving the appeal, the head of the public body will do one of the following: (1) reverse the denial (2) uphold the denial, (3) reverse the denial in part and uphold the denial in part, or (4) under unusual circumstances, issue a notice extending up to ten business days the period during which the Board of County Road Commissioners will decide the written appeal. The Board of County Road Commissioners will not issue more than one extension per appeal.

- A requestor may appeal a denial of a FOIA request by a FOIA Coordinator, or by the head of a public body, by commencing a civil action.

Appeal of FOIA Fee. The amount charged for a FOIA fee may be appealed to the head of the public body that requested the fee in response to the FOIA request.

- The requestor should submit a written appeal that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or FOIA. Within ten business days after receiving the appeal, the head of the public body will do one of the following: (1) waive the fee, (2) reduce the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the remaining fee; the determination will include a certification by the FOIA Coordinator that the statements in the determination are accurate and that the reduced fee amount complies with these procedures and guidelines and FOIA, (3) uphold the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the fee; the determination will include a certification by the FOIA Coordinator that the statements in the determination are accurate and that the fee amount complies with these procedures and guidelines and FOIA, (4) issue a notice extending up to ten business days the period during which the head of the public body must respond to the written appeal. The head of public body will not issue more than one extension per appeal.
- A requester may appeal the decision regarding a FOIA fee by commencing a civil action. A requestor may not commence a civil action regarding a FOIA fee unless he or she first appealed the fee to the head of the public body.