



Freedom of Information Act (FOIA) Procedures and Guidelines

1 Purpose

Shelby Charter Township is committed to open government and access to public records. This policy describes the Township's procedures and guidelines related to providing public records, in full compliance of the Michigan Freedom of Information Act (MFOIA).

2 Procedures

2.1 Designated FOIA Coordinator

The Human Resources Director is the designated FOIA Coordinator. The Coordinator is responsible for accepting and disseminating all written Freedom of information requests, as described in this policy and the MFOIA. In the event the Human Resources Director is not available, other Township staff may be designated to accept and disseminate FOIA requests.

2.2 Form of Submission

All FOIA requests must be made using one of the following formats:

- Completion of the Township's FOIA request form
- An email, addressed to the FOIA Coordinator using FOIA@ShelbyTwp.org
- A letter, addressed to the FOIA Coordinator
- A facsimile, addressed to the FOIA Coordinator
- Verbally, in-person or on the telephone to the FOIA Coordinator's Office

Request forms, letters and other written requests can be submitted at Township Hall, via postal courier, by fax, electronically (email or online form). Please see *Appendix A* for the Request Form. Verbal requests can be directed to the Human Resource Department.

Freedom of Information Act requests must sufficiently describe the public record being requested to enable the FOIA Coordinator or designee to identify the public record. The FOIA Coordinator or designee may request clarification of the document being requested. Such notice of a need for clarification shall not be interpreted as a denial of the request.

Any written requests received by other Township departments shall be immediately forwarded to the FOIA Coordinator for processing.

2.3 Time Period for Response to Written Request

Shelby Township will respond to all requests in a timely manner per MCL 15.235(2). Specifically, requests will be completed within five (5) business days (six (6) business days if the request is made electronically). Should the Township be unable to complete the request within this time period, the FOIA Coordinator shall send a written notice to the requester that the response time is being extended ten (10) business days.

2.4 Public Records

The Michigan Freedom of Information Act defines the types of documents that are considered “public records” for purposes of FOIA compliance. Should a request for information include records that contain non-public record information, the Township will redact those sections which are not subject to FOIA. Any uncertainty regarding the eligibility of specific information or documentation under the Act will be submitted to the Township’s attorney for review.

Should a public record be updated or revised, the Township will not automatically provide this information. A new request must be submitted each time information is requested.

2.5 Inspection of Public Records

A FOIA request may indicate that the requester would like to inspect public record(s). The inspection may be subject to the payment of costs, as outlined below in section 3.1 Fees. In this instance, the FOIA Coordinator shall contact the requester to arrange a reasonable time for the requester to inspect the non-exempt public documents. The inspection and examination of public record(s) shall be conducted by the requesting person in the presence of a Shelby Township employee, under conditions established by the FOIA Coordinator or designee, required to protect the Township’s public records and prevent excessive and unreasonable interference with the discharge of municipal functions.

2.6 Obtaining Copies of Public Records

If a FOIA request indicates that the requester desires to have copies of the public record(s) prepared and/or mailed, the FOIA Coordinator shall be responsible for providing copies of non-exempt public record(s), subject to the payment of costs, as outlined below.

Section 13 of the Freedom of Information Act permits a public body to withhold, or redact, from public disclosure certain categories of public records. Redacted information is defined in MCL 15.243 Sec. 13 and includes, but is not limited to personal information, information subject to attorney-client privilege, Personal Health Information, pending public bids, test questions and answers, scoring keys, certain law enforcement information.

2.7 Denial of Request

Requests for exempt public records, and for non-existent records, shall be denied. In the event of denial of a properly submitted FOIA request, the FOIA Coordinator or designee shall issue a written notice to the requester denying the request. The notice shall include an explanation as to why the requested public record(s) are exempt from disclosure or an indication that the requested record(s) do not exist and an explanation of the requestor's rights to appeal the decision to the Township board or seek review.

2.8 Limitations on Records Searches

Shelby Charter Township will put forth its best effort to respond to all requests made pursuant to the MFOIA. However, the Township will search only the most likely locations for responsive public record(s). A public body is not required under MFOIA to search each and every record it maintains in order to discover material that might pertain to a specific request.

2.9 Obligation of Township to Create a New Document

Under the MFOIA, a public body is not required to create a record, list, compilation or summary of information which does not already exist. This exemption includes analyzing, compiling, or summarizing existing information into a new format. In addition, the MFOIA does not impose greater retention of public record responsibilities than what is required under other provisions of the law and/or Township Charter.

2.10 Alternative Methods of Making Documents Available to the Public

In an effort to be responsive to public information needs, Shelby Township may elect to make some public records available on its website www.shelbytwp.org. Any records available in this format can be viewed online, or downloaded by the public with no need to prepare a FOIA request.

2.11 Retention of Copies

Shelby Township will retain FOIA-requested copies of public records for a period of ninety (90) days, following the notification of records availability to the requester. Any copies not collected after this period will be destroyed. Should the requester submit another request for copies of the records, additional fees and charges will be due and payable, as outlined below.

3 Cost Recovery

3.1 Fees

Pursuant to MFOIA, if a FOIA request is granted, in whole or 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. The following costs shall be charged to fulfill a FOIA request with Shelby Charter Township:

- a) Material costs. For materials provided by Township staff on Township equipment, please see *appendix B* for the fee schedule. Requests requiring the use of a commercial reproduction service, the cost to the requester will be the actual cost of reproduction.
 - b) Actual mailing costs
 - c) Labor costs, charged at the rate of the lowest paid employee in the capable of performing the necessary tasks to fulfill a request. Rates may vary by department, depending on the pay of staff in different departments and will include a charge to cover or partially cover the cost of fringe benefits. Labor costs include time required to search, examine, review, separate and delete exempt information, duplicate and mail public records. For purposes of this policy, the first 15 minutes of staff time per FOIA request is not charged. Staff time beyond this level will be billed per quarter hour increments rounded down, at the rate described above.
 - d) Mileage costs, billed at the current IRS rate for business travel, for any travel required by Township personnel to fulfill a FOIA request, including document retrieval, reproduction or other needs.
 - e) Actual cost of duplication for photographs, video or recordings, maps, plans, microfilm and any other type of document or medium requested.
- If a FOIA request is granted, in whole or in part and the Township has willfully and intentionally failed to provide the documents within the established response or extension period, charges will be reduced by 5% for each day which exceeds they time permitted under MFOIA up to a maximum 50% reduction if the following apply: The request clearly noted in the body of the document that this was a request for information
 - The request included the words or abbreviations, FOIA, Freedom of Information, information, copy or reference to MCL 15.231

3.2 Deposit Required

If the total estimated cost of fulfilling a FOIA request is expected to exceed \$100.00, the requester will be required to make a deposit of 50% of the total estimated cost before processing the request. When the Township requests a deposit, it will provide a non-binding, best effort estimate of how long it will take to process the request.

If the Township receives a request from a person who has not paid for a previously granted request for public records with the Township, 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 request when all of the following conditions exist:

- The final fee for the prior request was not more than 105% of the estimated fee for that request
- The public records made available contained the information sought and remain in the Township's possession
- The public records were made available, subject to payment, within the timeframe estimated by the Township
- 90 days have passed since the Township notified the requestor in writing that the public records were available to them
- The individual is unable to provide proof of payment to the Township
- The Township has calculated a fee which includes itemization the current request's increased fee deposit

The Township will not require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent request if any of the following conditions exist:

- The requestor is able to show proof of prior payment in full for the previously granted request in question
- The Township is subsequently paid in full for all applicable prior written requests
- 365 days have passed since the requestor made the request for which payment was not remitted

3.3 Ability to Pay

An individual may have the first \$50.00 of a FOIA charge waived, if the individual demonstrates economic hardship and submits an affidavit as outlined in MCL 15.234 sec.4 (1) or is a nonprofit organization designated by the State of Michigan to carry out activities related to disability assistance or advocacy for people with mental illness. Waiver of fee shall not exceed two times per calendar year for an individual or nonprofit organization.

4 Challenge of a denial or fee

4.1 If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you have the right to

- A. submit to the Board of Trustees a written appeal that specifically states the word “appeal” and identifies the reason or reasons for supporting a reversal of the disclosure denial; or
- B. commence an action in the circuit court, within 180 days from the date of this letter, to compel Shelby Township’s disclosure of the requested records.

You also have the right to an award of attorney fees and damages if, after judicial review, the circuit court determines that there has been a violation of the Freedom of Information Act and orders disclosure of all or a portion of a public record.

If the circuit court determines, in an action commenced under the Freedom of Information Act, that Shelby Township has arbitrarily and capriciously violated the Act by:

- refusal or delay in disclosing or providing copies of a public record, the court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1000.00.
- If the court determines that the requestor has been charged an excessive fee punitive damages in the amount of \$500.00 may also be awarded.

If the court determines that either an appeal of a denial of a public record, or the appeal of an excessive fee, that the public body willfully and intentionally failed to comply with the FOIA or otherwise acted in bad faith, then in addition to any other award or sanction, the court shall impose a civil fine of not less than \$2500 or more than \$7500 for each occurrence. The court is required to consider the budget of the public body and whether the public body has been previously assessed penalties under the FOIA.

Appendix A



Freedom of Information Act – Request Form

ID# _____

Requester – Last Name _____ First _____

Address _____ City / State / Zip _____

Daytime Phone _____ Email _____

Signature _____ Today's Date _____

PLEASE NOTE: The Freedom of Information Act ("FOIA") may require a public body to produce copies of documents to a requester. Therefore, please provide a detailed description below of the documents you are seeking so that we may determine if we have the documents and if the FOIA allows us to give those items to you. For a copy of the Shelby Township procedures and guidelines pertaining to FOIA requests, visit our website at http://www.shelbytwp.org/departments/human_resources/forms.html

FOIA Requests – Fee Schedule

Copy Paper: \$0.10 per sheet	Labor	Research/Duplication/	Printed Aperture Cards: \$5.50 per
Photo Paper \$1.61 per sheet	Redaction: \$19.69 per hour	wage/\$3.50 fringe	card + labor @ \$19.69/hr + \$7.71
Blueprint Copy: \$2.00 per sheet	(\$16.19 wage/\$3.50 fringe	benefits) you will be notified	mileage. You will be required to pay
CD's \$0.16 each	prior to the processing of this	request of this wage rate differs.	the estimated cost prior to the
CD Vinyl Sleeve \$0.07 each			duplication of your requested cards.
Postage Actual USPS Cost			

I, the Requester, have attached an "Affidavit of Indigence" or am requesting on behalf of a qualified non-profit organization and ask the Public Body to furnish the material(s) without charge for the first \$50 of the required fees.

FOIA - OFFICE USE ONLY

Date Received _____ Date Due _____ Extension Date _____

Received By _____ RE: (Twp Dept) _____

Ready Date _____ Notified Date _____ Finalized Date _____

Status Notes _____

Appendix B

The Charter Township of Shelby F.O.I.A. Coordinator's Office

52700 Van Dyke Avenue
Shelby Township MI 48316

Email: FOIA@ShelbyTwp.Org

Phone (586) 726-7241
Fax (586) 726-9370

F.O.I.A. Requests – Fee Schedule

Copy Paper	\$ 0.10 per sheet
Photo Paper	\$ 1.81 per sheet
Blueprint Copies:	\$ 2.00 per sheet
CD's	\$ 0.16 each
Vinyl CD Sleeve	\$ 0.07 each
Postage	Actual USPS Cost

Aperture Cards may be viewed at the Building Department. The Township can only obtain copies of the cards using equipment located at another municipality. The following fees for copies apply and must be paid in advance.

Cards (24" x 36")	\$ 5.30 per card
Mileage	\$ 7.71 mileage adjustable to current IRS reimbursement rate
Labor (anticipated 1 hour)	\$ 19.50 per hour

Labor

This fee is the hourly wage and a portion of the benefit cost of the lowest paid employee capable of performing the request. The rate below is the lowest paid employee wage. You will be notified prior to the processing of this request if this wage rate differs.

Research	\$ 19.69 per hour (16.19 wage/3.50 fringe benefits)
Duplication	\$ 19.69 per hour (16.19 wage/3.50 fringe benefits)
Redaction	\$ 19.69 per hour (16.19 wage/3.50 fringe benefits)

Contracted labor costs are only permitted if Shelby Township does not have an employee capable of performing this work and cannot exceed \$48.90 per hour. You will be notified prior to processing this request if contracted labor estimated cost is applicable.

Effective: July 1, 2015

