

ACME TOWNSHIP FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

Pursuant to Michigan's Freedom of Information Act, Public Act 442 of 1976, as amended, ("FOIA") including Section 4(4) of the FOIA, Acme Township adopts these FOIA Procedures and Guidelines.

1. Purpose. It is the public policy of the State of Michigan and Acme Township that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of Acme Township and the official acts of those who represent them as public officials and public employees, consistent with the FOIA.

2. FOIA Coordinator. Acme Township's FOIA Coordinator shall be the Township Clerk. The FOIA Coordinator may designate another individual to act on his or her behalf. The FOIA Coordinator shall be responsible for accepting and processing requests for the Township's public records and shall be responsible for approving a denial under the FOIA.

3. FOIA Requests. All requests for public record must be in writing to the FOIA Coordinator. Requests must describe the requested public record sufficiently to enable Acme Township to find the record. Acme Township shall provide a FOIA request form that requesters may choose to use. Any Acme Township official or employee that receives a FOIA request shall immediately provide the request to the FOIA Coordinator.

a. Exceptions. No FOIA request is necessary for the following: 1) Copies of assessment/tax records by the property owner of his/her own property; 2) Copies of assessment/tax records that are reasonable and readily available at the time of request; 3) Copies of all current meeting agendas; and 4) Copies of meeting minutes are available on the Acme Township website, if hard copies are requested then copy charges will apply.

b. FOIA Request Sufficiency. All FOIA requests must contain the following:

- i.** The name of the requester.
- ii.** The mailing address of the requester or, if no mailing address, a statement that the requester will return on the fifth business day to receive the Township's response.
- iii.** A statement indicating that the requester will pay the costs allowable under the FOIA, or documentation that the requester is receiving public assistance or other facts showing inability to pay due to indigence.
- iv.** A description of the public record sought by the requester and whether the requester would like to inspect, copy, or receive copies of the public record (if copies, what form of copy is desired, e.g., paper, disc, email, etc.).

c. Alternative Delivery of FOIA Request. A written request made by facsimile, electronic mail, or other electronic transmission shall be considered received 1 business day after the transmission is made. If the transmission is delivered to a spam or junk-mail folder, then the transmission shall be considered received 1 business day after the transmission is discovered.

d. Oral Requests.

- i.** The FOIA Coordinator shall accept a disabled person's oral FOIA request by assisting with the writing out of that request and then treating that request as a formal written FOIA Request.
- ii.** If an oral request for information is for information on Acme Township's website, the Acme employee receiving said request shall inform the requester of the website address to the extent practicable. If hard copies are requested then a written FOIA request will be required.

4. FOIA Processing. The FOIA Coordinator shall process each FOIA Request according to the following procedures:

a. FOIA Response. Once received, the FOIA Coordinator shall respond to a FOIA Request within 5 business days by doing one of the following (unless otherwise agreed to by the requester):

- i.** Granting the request;
- ii.** Issuing a signed written notice denying the request that contains:
 - (1) an explanation of the basis under the act for which the FOIA Coordinator found the record exempt from disclosure,
 - (2) a certificate that the public record does not exist by the name given or another name reasonably know to the Coordinator,
 - (3) a description of the public record that is separated or deleted, and
 - (4) the following verbatim *"If you receive written notice that your request was denied in whole or in part, you may, at your option, either 1) submit to the FOIA Coordinator a written appeal that specifically states the word "appeal" and identifies the reason(s) you believe the denial should be reversed; or 2) file a civil action in the Grand Traverse County Circuit Court to compel Acme Township's disclosure of public records within 180 days after Acme Township's final determination to deny a request. If, after judicial review, the Circuit Court determines that Acme Township has not complied with the FOIA and orders disclosure of all or a portion of a public record, you may be awarded attorney's fees and damages as provided by Section 10 of the FOIA."*
- iii.** Granting the request in part and issuing a signed written notice denying the request in part which includes the requirements in subsection ii. above; or
- iv.** Issuing a notice extending for not more than 10 business days the period during which the FOIA Coordinator shall respond to the request which includes the reason for extension and the date by which he or she shall respond in a manner set out in this subsection 4(a)(i) through (iii).

b. Additional Writing to Requestor. All responses to a FOIA request shall also include the following:

- i. An invoice containing a detailed itemization of the fee charged pursuant to Section 5, below;
- ii. Information indicating where to inspect or receive copies, and pay the charged fee;
- iii. If the public record is available on Acme Township’s website, the web address where such information is available and a statement that there will be additional charge for copies of those records;
- iv. The following statement: *“The Township does not warrant or guarantee the accuracy of the information provided. Rather, it provides the documents only to comply in good faith with the Michigan Freedom of Information Act, and not for any other purpose.”*

c. Failure to Respond. Failure to respond pursuant to subsection 4(a), above, shall constitute a final determination to deny the request if either of the following applies:

- i. The failure was willful and intentional; or
- ii. The written request made the request for public records within the first 250 words of the request, or specifically included the following on the front of an envelope or in the subject line of the request: 1) “freedom of information”, 2) “information”, 3) “FOIA”, 4) “copy”, 5) a recognizable misspelling of the preceding, or 6) reference to the FOIA Act or code.

5. FOIA Fees and Costs. The FOIA Coordinator may charge a fee for copies and actual mailing costs for a FOIA response. In addition, the FOIA Coordinator may charge a fee for the cost of search, examination, review, and the deletion and separation of exempt from non-exempt records if failure to charge a fee would result in unreasonably high costs to Acme Township because of the nature of the request in the particular instance, and the FOIA Coordinator identifies the nature of those unreasonably high costs in the FOIA response. All charged fees and costs shall be determined and adopted by separate resolution of the Acme Township Board, and shall be reviewed and amended from time to time, as necessary.

a. Material, Equipment and Mailing Costs.

Black and White Photocopies	\$0.10 per page
Compact Disc	\$1.80 per disc and holder
Mailing	Actual mailing costs
Contracted Services for Producing Copies	Actual invoiced charge to Acme Township

b. Labor Costs. Labor costs shall be charged in increments of 15 minutes, with all partial time increments rounded down. Costs for labor are as follows:

i. Copies. Labor charges for making copies, creating compact discs, scanning documents, or faxing documents to respond to a FOIA request shall be at the hourly wage of the lowest-paid Acme Township clerical employee, regardless of who makes said copies, plus fringe benefits set out below.

ii. Searching, Locating and Examining. Labor charges for the necessary searching for, locating, and examining of public records to respond to a FOIA request shall be at the hourly wage of the lowest-paid Acme Township employee capable of searching for, locating and examining of public records, regardless of who actually does such work, plus fringe benefits set out below.

iii. Separation and Deletion of Exempt Information. Labor charge for the necessary review associated with separating and deleting exempt information from non-exempt information shall be at the hourly wage of the lowest-paid Acme Township employee capable of separating and deleting exempt information from non-exempt information, regardless of who actually does such work, plus fringe benefits set out below.

If Acme Township does not employ a person capable of separating and deleting exempt information, then it may charge actual contracted hourly wage labor costs if the detailed itemization includes the name of the contracted person or firm. However, the hourly wage shall not exceed an amount equal to 6 times the state minimum hourly wage as determined by Public Act 138 of 2014, as amended.

No charge for separation and deletion shall be made for public records already available on Acme Township's website.

iv. Fringe Benefits. Acme Township shall charge a multiplier for fringe benefits of employees for the labor charges set out above in 5(b)(i) through (iii). The appropriate multiplier shall not exceed the actual fringe benefits of the employee, and in no case shall be greater than 50% of the charged hourly wage. However, if the public records requested are available on Acme Township's website and the requester stipulates that he or she wants copies then there is no 50% limitation and actual labor plus actual fringe benefit costs may be charged for those copies.

c. Waiver or Reduction of Fees and Costs. Fees and costs may be waived or reduced under the following circumstances and shall be reflected in the detailed itemization:

i. Public Interest. Upon request in a FOIA request, Acme Township may reduce or waive fees and costs it determines that searching for or furnishing the public record primarily benefits the general public.

ii. Waiver of first \$20.00. When a requester meets either of the following the first \$20.00 of the fee shall be waived:

(1) The requestor submits an affidavit stating he or she is indigent by either showing that he or she receives public assistance, or provides facts demonstrating the inability to pay the cost. Unless the requestor has previously received this waiver from Acme Township twice during that calendar year, or the requestor makes the request in conjunction with another party offering payment for the request. In the case of denial, the FOIA Coordinator shall provide the reason in the FOIA response.

(2) The requestor is a non-profit designated by the state to carry out activities under subtitle C of Public Law 106-402 of 2000 and Public Law 99-313, makes the request on its own or its clients' behalf, the reason is consistent with Section 931 of Public Act 258 of 1974 and is accompanied by documentation of its designation.

d. Good-Faith Deposit. A FOIA response under Section 4(a), above, may include the requirement for a good-faith deposit prior to providing the requested public records if:

- i. A detailed itemization estimate or charge is completed and the detailed itemization exceeds \$50.00;
- ii. The FOIA response include the detailed itemization;
- iii. The required deposit does not exceed $\frac{1}{2}$ of the total charge on the detailed itemization; and
- iv. The FOIA response includes a best efforts estimate of the time to comply with the FOIA.

e. Full Deposit. The FOIA Coordinator shall require a 100% deposit of an estimated fee for a FOIA request if Acme Township has not been paid in full for a previous FOIA response to the same requester if all of the following apply:

- i. The final charge for the previous response did not exceed 105% of the estimate;
- ii. The public records compiled for the previous response remain in Acme Township's possession;
- iii. The previous response was timely;
- iv. Ninety days have passed since the FOIA Coordinator notified the requestor of the previous response's availability;
- v. The requestor cannot show proof of payment for the previous response;
- vi. The FOIA Coordinator provides a complete detailed itemization estimate; and
- vii. No more than 364 days have passed since the date of the FOIA request for which the requester did not make payment.

f. Failure to Respond in a Timely Manner. If Acme Township fails to respond to a FOIA request in a timely manner as required by Section 4 above, it shall do the following:

- i. Reduce labor charges by 5% for each day the FOIA response is untimely with a maximum 50% reduction, if either of the following applies:

- (1) the late response was willful and intentional; or
- (2) the written request made the request for public records within the first 250 words of the request, or specifically included the following on the front of an envelope or in the subject line of the request: 1) “freedom of information”, 2) “information”, 3) “FOIA”, 4) “copy”, 5) a recognizable misspelling of the preceding, or 6) reference to the FOIA Act or code.

ii. Fully note and account for a required charge reduction in the detailed itemization.

6. FOIA Disclosure Appeals. A requester may file an appeal of a disclosure denial to the Acme Township FOIA Coordinator and/or the Grand Traverse County Circuit Court. When a requester submits an appeal of a disclosure denial to the FOIA Coordinator, the FOIA Coordinator shall provide that appeal to the Acme Township Board of Trustees at its next regularly scheduled meeting at which time the appeal shall be considered received.

a. Because the FOIA requires a response to the appeal within 10 business days of receipt, the Township Board shall consider and decide the appeal at the regularly scheduled meeting at which the appeal received and instruct the FOIA Coordinator to do one of the following:

- i. Reverse the disclosure denial and provide the public records to the requester;
- ii. Issue a written notice to the requester upholding the disclosure denial; or
- iii. Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

b. If Acme Township fails to respond or if it upholds in whole, or part, the disclosure denial then the requester may seek judicial review pursuant to Section 10 of the FOIA.

7. FOIA Fee Appeals. A requester may file an appeal of fees to the Acme Township FOIA Coordinator and/or the Grand Traverse County Circuit Court. When a requester submits a fee appeal to the FOIA Coordinator, the FOIA Coordinator shall provide that appeal to the Acme Township Board of Trustees at its next regularly scheduled meeting at which time the appeal shall be considered received.

a. Because the FOIA requires a response to the appeal within 10 business days of receipt, the Township Board shall consider and decide the appeal at the regularly scheduled meeting at which the appeal received and instruct the FOIA Coordinator to do one of the following:

- i. Waive the fee;
- ii. Reduce the fee and issue a written determination to the requestor indicating the specific basis under section 4 of the FOIA that supports the remaining fee. The determination shall include a certification from the Township Board that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4; or

iii. Uphold the fee and issue a written determination to the requestor indicating the specific basis under section 4 of the FOIA that supports the required fee. The determination shall include a certification from the Township Board that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

b. If Acme Township fails to respond or if it upholds in whole, or part, the fee then the requester may seek judicial review pursuant to Section 10a of the FOIA.

8. FOIA Response Retention.

a. The FOIA Coordinator shall hold an un-retrieved completed FOIA response and all public records associated with that response for one year and one day from the date of completion. If the requester fails to pay the fee or retrieve the response and public documents prior to expiration of that time, then the FOIA Coordinator may recycle, destroy or return the documents to the appropriate department.

b. The FOIA Coordinator shall maintain a chronological file of all FOIA requests processed by him or her together with a copy of all public records provided as part of that response, letters and invoices for a period of one year and one day from the date of the completed response.