

MACKINAC COUNTY ROAD COMMISSION FREEDOM OF INFORMATION POLICY AND PROCEDURES

Effective Date: May 19, 2015

The Mackinac County Road Commission (MCRC) shall make available documents and records as required by the Freedom of Information Act (FOIA) Public Act 442 of the Public Acts of 1976 MCL 15.231 Et. Seq.

SUBMISSION OF REQUESTS

All FOIA requests must be made in writing. Requests made by facsimile copy or electronic mail is deemed received the first business day following its transmission. Requests will be forwarded to the FOIA Coordinator for response.

The Office Manager is the designated FOIA Coordinator. In his/her absence, the Engineer/Manager, or his/her designee shall act as the FOIA Coordinator. The FOIA Coordinator shall provide records, has authority to issue notices extending response times, or deny requests in whole or part, on behalf of MCRC.

The FOIA Coordinator shall respond in writing to a FOIA requests within five (5) business days of receipt, using the Notice of Freedom of Information Act Response form.

DETERMINATION TO GRANT OR DENY

Upon receipt of a Freedom of Information Act request, the FOIA Coordinator shall review the request and determine if the requested information, or any portion thereof, is exempt (see Appendix A, List of Exempt Information) or non-exempt. The FOIA Coordinator shall also determine if the request shall be denied or granted.

If the request should be denied as exempt or the requested material is not available, the individual or firm requesting the information shall be so informed, in writing, stating the reasons thereof.

A file of all requests for information and a record of the response and information given shall be maintained.

PREPARATION COST

If the determination is to grant the request, a cost estimate to assemble and respond to the request shall be prepared.

The Road Commission shall require that the applicable expense of responding to Freedom of Information Act requests shall be paid by the individual or firm making such request.

At the time the request is made, the Road Commission may request a good faith deposit from the person requesting the public records, if the fee exceeds \$50.00. The deposit shall not exceed ½ of the total fee. (15.234 Sec. 4. (2))

Upon completion of the assembled data, the actual costs to prepare same shall be totaled and the applicant will be advised and shall be required to pay said cost, minus deposit if applicable, prior to the release of the requested information (See Appendix B, Cost Assignment).

TIMING OF REQUEST AND RESPONSE

The time frame for Commission responses, under the Freedom of Information Act Policy, shall be as follows:

Upon receipt of the written request and documentation thereof, a period of five regular working days shall be allowed to review and determine if the request will be denied or granted. The applicant will be advised if said determination within the five day period including the cost to prepare the information requested and advance good faith deposit, if applicable.

The assemble or preparation will not be initiated where good faith deposits are determined to be necessary until the applicant's deposit is made with the Commission.

Ten regular working days will be allowed to provide the Road Commission staff to assemble and furnish requested materials(s). For requests where good faith deposits are required, the ten-day response time shall start with the date of payment of the deposit.

Partial fulfillment of applicant requests shall be considered as responsive when the search and assembly cannot reasonable be completed in normal response time due to the extent of records to be reviewed and/or proper personnel to conduct the requested searches. Applicants shall be advised when delays are anticipated in responding to Freedom of Information Act requests.

The required time frame for responses may be extended beyond the requirements of the Act and/or Policy by mutual consent of the applicant and the designated person.

Applicants requesting inspection of records may be required to conduct said inspection at the convenience of the Commission during regular hours and days; however, the records shall be made available within the time requirements of the Act and/or Policy and may be extended by mutual agreement. Said inspection shall be made in the presence of an employee of the Commission, as directed by the Engineer/Manager.

APPEAL PROCEDURE FOR DENIAL OF REQUESTED RECORDS:

Per section 5(4)(d)(i) of FOIA, you may submit to the Chairperson of the Mackinac County Board of Road Commissioners a written appeal that specifically states the word “appeal” and that identifies the reason(s) for the requested reversal of the denial. The appeal should be mailed to the Board Chairperson, care of the FOIA Coordinator, at the Mackinac County Road Commission’s address, Attention FOIA Board Appeal. The Board will address the appeal at the next regularly scheduled meeting after the appeal is received and will respond to the appeal within ten (10) days after the Board meeting.

Alternately, you may seek judicial review of the denial under Section 10 of FOIA. Such review will be in the circuit court for Mackinac County. If you prevail in your court action, FOIA Section 10(6) provides: “The Court shall award reasonable attorneys’ fees, costs, and disbursements.” If you or the County prevail in part, “...the court may, in its discretion, award all or an appropriate portion of reasonable attorneys’ fees, costs, and disbursements.” Section 10 also provides for payment of damages in certain cases.

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Appendix "A"
List of Exempt Information

1. Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
2. Investigating records compiled for law enforcement purposes.
3. Records that would prejudice the ability to maintain security at a penal institution.
4. Records or information specifically described and exempted from disclosure by statute.
5. Records exempt under the Federal Family Educational and Privacy Act.
6. Exempt records furnished by one public body to another.
7. Trade secrets or commercial information voluntarily provided upon a promise of confidentiality.
8. Attorney-Client privilege.
9. Other legally recognized privileges.
10. Bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the time for the receipt of bids or proposals has expired.
11. Appraisals of real property to be acquired by the public body until; (i) an agreement is entered into; or (ii) 3 years has elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.
12. Test questions and answers.
13. Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.
14. Advisory communications within a public body or between public bodies to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action.
15. Law enforcement communication codes.
16. The location of archeological sites.
17. Testing data to determine whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications.
18. Academic transcripts pertaining to a student who is delinquent in payment.
19. Records of any campaign committee including any committee that receives monies from a state campaign fund.
20. Records of a police agency that would interfere with law enforcement or endanger a law enforcement officer.
21. Other records as defined exempt by law.

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Appendix “B”
Cost Assignment

LABOR COSTS: Labor costs shall be the hourly wage of the lowest paid, full-time, permanent clerical employee, plus fringe benefits computed by multiplying the percentage rate times the wage. All labor costs shall be charged in 15 minute increments.

Labor costs charged include necessary searching for, locating, and examining of MCRC records in conjunction with receiving and fulfilling a granted written request. Labor costs charged also include time spent searching for, examination of, review of and duplication of documents, and the deletion and separation of exempt information from non-exempt information.

PHOTO COPIES: All photocopies shall be 10¢ per page. All photocopies shall be on 8.5”x11” sheets and shall be double-sided, if available.

PLANS: Actual cost for duplicating Plans that cannot be photocopied due to size.

POSTAGE: Postage shall be at actual cost per mailing.

WAIVERS: The first \$20 of the fee shall be waived for each request of an individual who submits an “Affidavit of Indigency” stating that they are receiving public assistance or facts showing inability to pay the full cost. An individual is ineligible for a fee waiver if they have received a fee waiver twice in the same calendar year or the individual is requesting information on behalf of someone that is paying them to do so.

The first \$20 of the fee shall be waived for certain non-profit organizations that are either designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Right Act of 2000 or the Protection and Advocacy for Individuals with Mental Illness Act. These requests must meet requirements of the most current Freedom of Information Act.

PAYMENTS: If the fee for the search and providing the public information exceeds \$50, a deposit of ½ the estimated fee is required.

Fees must be paid in full prior to the actual delivery of the public information or copies.

OTHER:

Any other fees or costs allowed by law.

MACKINAC COUNTY ROAD COMMISSION
NOTICE OF FREEDOM OF INFORMATION ACT RESPONSE

Date request received: _____

Request received via: US Mail Fax Email In person

Name and address of Requester: _____

Public Records requested: _____

Request is: Granted Denied Granted in part/Denied in part
(Explanation attached) (Explanation attached)

Response period is extended up to an additional 10 business days to _____
(Date)

Fees Incurred in responding to request:

_____ hours x \$ _____ hourly wage = \$ _____

_____ copies x \$0.10 per page = \$ _____

Postage (actual cost) = \$ _____

Other = \$ _____

Total Costs = \$ _____

First \$20.00 of fee waived (affidavit of Public Assistance or Indigence submitted and accepted)

Estimated fee exceeds \$50.00, a deposit of one-half the total amount must be received by MCRC prior to the Road Commission's response. The deposit of \$ _____ shall be payable by check or money order. Remit to: Mackinac County Road Commission, 706 North State Street, St. Ignace, MI 49781, with a copy of this notice.

Deposit received on _____
(Date)

Balance received on _____ Receipt # _____
(Date)