

Emmett Charter Township
Freedom of Information Act (FOIA) Procedures and Guidelines

Effective date: July 1, 2015

A. **Appointment of FOIA Coordinator.** In accordance with Section 6 of the Freedom of Information Act (FOIA), MCL 15.236, the Township has appointed a FOIA Coordinator, as well as Assistant FOIA Coordinators. The names of the FOIA Coordinator and Assistant Coordinators are available from the Township Clerk's Office.

B. **Submission of FOIA Request.** FOIA requests to Emmett Charter Township may be submitted by email or mail to :

Email: FOIA@emmett.org

Mail: Emmett Charter Township
Attn: FOIA Coordinator
621 Cliff Street
Battle Creek, MI 49014

Requests can also be faxed to (269) 968-0108 or submitted electronically on the Emmett Township internet page located at www.emmett.org.

Requests should include name, phone number, and mailing address of the requestor.

C. **Immediately forward FOIA Request.** Any employee of the Township who receives a written request for a public record must immediately forward that request to the Freedom of Information (FOI) Coordinator at Emmett Township. If a Township employee receives an electronic written request for a public record that is delivered via spam or junk-mail folder, the employee must record and date and time the written request was delivered to the spam or junk-mail folder and date and time the employee first became aware of the written request. The employee must forward those dates and times to the FOI Coordinator with the written request.

D. **Request Response Time.** The Township may extend the time for responding by an additional ten business days by notifying the requesting person in writing of the reason for the extension and the new due date (MCL 15.235 (2) (d) and (6)). Due to the short statutory time period within which the Township must issue a written notice in response to the FOIA request, it is imperative that there be no delay in complying with the Township procedures and guidelines.

E. **Response to a FOIA Request.** Only the Township's FOIA Coordinator or Assistant FOIA Coordinators will respond to FOIA requests. The Township will provide copies of these procedures and guidelines and a summary of these procedures and guidelines with each written response or provide a line to an on line version of these documents. If a request is denied, in full or in part, the Township will provide the requestor an explanation of the basis of the denial under the FOIA, and give notice to the requestor of his or her remedial rights (MCL 15.235(4)).

F. **Notification of FOIA Request.** Upon receipt of a FOIA request, the Township's FOI Coordinator will contact the work site(s) that might possess records responsive to the FOIA request by email or fax. The contact will include a date the documents are due to the FOI Coordinator.

G. **Work Site Response to Township's FOI Coordinator.** As soon as possible, but not later than the date provided by the FOI Coordinator, the works site's response is due to the FOI Coordinator. If no documents responsive to the request exist, the work site must notify the FOI Coordinator that no records will be sent.

H. **Assessment of Fees for a FOIA Request.** The FOIA permits the Township to charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material, but only if the failure to charge a fee would result in unreasonably high costs to the Township because of the nature of the request in the particular instance, and the Township identifies these unreasonably high costs (MCL 15.243(1) and (3)).

The following fee guidelines for calculating labor and material costs incurred in processing FOIA requests are established pursuant to MCL 15.234(3):

1. Fees will be uniform and not dependent upon the identity of the requesting person.
2. Fees will be itemized using the attached form and will include:
 - A. Labor costs for search, location, and examination of public records which will be calculated using the hourly wage of the Township's lowest paid employee capable of conducting the search, location, and examination whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the township's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - B. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material which will be calculated using the hourly wage of the Township's lowest paid employee capable of conduction the review and separation and deletion of exempt from nonexempt material, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the township's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - C. Non-paper physical media costs will be calculated using the actual and most reasonably economical cost of computer discs, computer tapes, and other digital and similar media provided by the Township.
 - D. Duplication and publication costs for paper copies will be calculated using the actual total incremental cost of necessary duplication or publication record, not including labor. The actual and incremental cost, calculated per sheet, shall be charged and will not exceed ten cents per sheet of paper for letter or legal size paper. The township shall use the most economical means available for making copies, including the use of double-sidd printing, if cost-saving and available.
 - E. Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on non-paper physical media or through electronic means, will be calculated using the hourly wage of the employee capable of duplicating or publishing the public records, whether or not they are available to perform the labor. Such labor costs shall be estimated and charged in based on the Township's payroll records for the applicable

fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.

F. Actual costs of mailing using a reasonably economical and justifiable manner.

3. No Township employee shall stipulate to work overtime or include overtime wages in the labor costs described in these procedures and guidelines.

4. If a requestor submits an affidavit of indigence, the first \$20.00 of a fee will be waived. A requesting person must include a statement that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration. Other than \$20.00 for cases of indigence, no Township employee shall waive a fee or any part of a fee without authorization from the FOIA Coordinator.

5. Labor costs for monitoring and inspection of original records will be calculated using the hourly wage of the Township's lowest paid employee capable of monitoring the inspection. The hourly wage based on the Township's payroll records for the applicable fiscal year. Note: Section 3(3) of the FOIA, MCL 15.233(3), provides, in pertinent part, that "[a] public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction."

6. If a statute authorizes the sale or production of public records to the public for a specified fee or if a fee for production of public records is otherwise set by statute, the Township will charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.

I. **Deposit Requirements.** If the Township estimates a fee to process a FOIA request greater than \$50.00, the Township will require a good-faith deposit from the requestor before processing the request. The deposit shall not exceed half of the total estimated fee. Any written notice containing a request for a deposit shall also contain a best efforts estimate by the Township regarding the time frame after a deposit is received that it will take the Township to provide the public records to the requestor. The time frame estimate is not binding upon the Township, but the Township shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under Section 1 of the FOIA, MCL 15.231 and the nature of the request in the particular instance.

J. **Appeals of Fees and Disclosure Determinations.** If the Township charges a fee or denies all or part of a request, the requestor may submit to the head of the Township a written appeal that specifically states the word "appeal" and identifies the basis for which the fee should be reduced or the disclosure determination should be reversed.