



# **FREEDOM OF INFORMATION ACT POLICY**

## **Summary**

Section 1 of the Michigan Freedom of Information Act (“FOIA” or “the statute”) provides, “it is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.”(M.C.L.A. 15.231.) To that end, all people, excluding prisoners, are allowed to file FOIA requests with the Shiawassee Conservation District (the “SCD”). A requester must simply file a request in writing with the SCD FOIA Administrator, and the SCD will begin processing his or her request. Verbal requests will require contact information for follow-up as the FOIA Administrator will summarize the verbal request for accuracy in writing to the requester for content confirmation.

The SCD, in its initial response, will do one of the following within the time frame permitted by the statute: grant the request, partially grant the request, deny the request, inform the requester that additional time is needed, require a fee deposit prior to further processing, or inform the requester that the requested record has not been sufficiently described.

If a request is denied or partially denied, the SCD will explain why the documents have not been released and inform the requester of his or her challenge and appeal options.

A fee deposit will be required when processing a request that will require significant SCD employee time and resources. The SCD will notify the requester of the estimated cost and provide a non-binding, best efforts estimate of the time it will take to complete the processing of the request, and the SCD will determine if the cost of processing the request is significantly less than or greater than the estimated cost. If that is the case, the SCD will notify the requester to allow the requester to determine whether and how he or she wants to proceed with the request.

After the SCD receives a required deposit, it will make every effort to provide the requested documents within the time estimate provided. Requesters must understand, however, that at any given time, the SCD is processing multiple requests and cannot devote all of its time to one particular request.

If a requester feels that he or she was wrongly denied responsive documents, he or she may appeal to the Head of the Public Body, which for the purposes of these Procedures and Guidelines is the Chair of the SCD, or file a civil action. If a requester believes that the SCD has required a fee that exceeds the amount permitted under the Procedures and Guidelines, he or she may file a civil action.

Requesters are also always free to contact the SCD Administrator at:

(989) 723-8263 ex 3 with any questions about the processing of their requests. Detailed Procedures and Guidelines follow.

# Procedures and Guidelines

## 1. How to submit a FOIA request to the Shiawassee Conservation District.

- A. A FOIA request must be submitted in writing to the Shiawassee Conservation District Office. The request may be transmitted in hard copy, by email or verbally.
- B. The Shiawassee Conservation District address is 1900 S. Morrice Rd, Owosso, MI 48867. The email address is [melissa.higbee@mi.nacdnet.net](mailto:melissa.higbee@mi.nacdnet.net).
- C. A request should describe the record(s) sought sufficiently to enable the SCD to find the record(s) and should provide the requester's contact information.
- D. A request should state that it is submitted pursuant to the Michigan Freedom of Information Act.
- E. A request received electronically is deemed received the next business day. A business day is defined as any day between and including Monday through Friday, excluding of holidays and institutional closure days.
- F. If a FOIA request is delivered to the SCD Administrator's junk mail folder, the request will be deemed received one business day after the FOIA Administrator becomes aware of the request. The FOIA Administrator will check the junk mail folder at least once per week.
- G. Verbal requests made via telephone or in person to the FOIA Administrator will require contact information for follow-up. The FOIA Administrator will summarize the verbal request for accuracy in writing to the requester for content confirmation.

## 2. Responses to FOIA requests to the Shiawassee Conservation District

- A. The SCD will respond to a FOIA request within five (5) business days of the FOIA Administrator receiving the request.
- B. A response will consist of one or more of the following:
  - I. A granting of the request
  - II. A partial granting of the request, and a partial denial because some or a portion of the records do not exist, are not in the possession of the SCD, and/or are exempt from disclosure.
  - III. A complete denial of the request because all of the records do not exist, are not in the possession of the SCD, and/or are exempt from disclosure.
  - IV. A notice that more time is needed to process the request.

- V. If more time is needed, the SCD will send out a follow up response within 10 business days of the initial response.
- VI. A notice that a fee deposit is required prior to further processing
- VII. If a fee deposit is required, the SCD will include in its response a non-binding, best efforts estimate regarding the time it will take to provide the records to the requester.
- VIII. A notice that the record(s) sought has (have) not been sufficiently described to enable the SCD to locate the record(s).
- IX. The response will state the FOIA exemptions under which any information and/or documents are withheld, if applicable.
- X. If any part of a request for records is denied for any reason, the response will set forth the procedures for appealing the denial.

### **3. Deposit Requirements**

- A. A fee deposit will be required when the processing of a request will result in fees equal to or greater than \$50.00.
- B. The required deposit will equal up to 50% of the estimated cost of fulfilling the request as calculated at the time of the initial response.
- C. If the SCD requires a deposit, it will not process the FOIA request further until the deposit is paid.
- D. If, after receipt of the deposit and further processing of the request, the SCD learns that the processing costs will be significantly different from the estimated costs, the SCD will so notify the requester. Where the actual effort to search for, review and separate exempt material significantly exceeds the original estimate, the SCD will notify the requester. The requester may choose to receive a revised fee deposit notice, or limit his/her original request to those records, which may be processed within the time stated in the original fee estimate.
- E. A person who makes a FOIA request for which a deposit is required may withdraw that FOIA request without charge instead of paying the required deposit. Failure to pay the deposit will be deemed as a withdrawal of the FOIA request.
- F. The SCD will treat multiple FOIA requests on the same topic(s) and/or regarding the same record keeper(s) from the same person as one FOIA request for purposes of determining if the fee is below \$50.00

- G. Where a requester who has not paid the final fee for the processing of an earlier request files a new FOIA request, the SCD may require a deposit of all (100%) of the estimated fees for processing the subsequent request prior to processing the subsequent request.

#### **4. Calculation and Payment of Fees.**

- A. Fees are calculated by adding together the following costs, as applicable:
  - i. The labor costs for searching for, locating, and examining responsive records.
  - ii. The labor costs for review, separation, and deletion of exempt information from non-exempt information.
  - iii. The cost of non-paper physical media, if used.
  - iv. The cost per copy of paper copies, not to exceed \$0.10/page for standard 8 ½ x 11 inch paper.
  - v. The labor costs directly associated with duplication or publication, which may include copying to non-paper media.
  - vi. The cost of mailing.
- B. A detailed FOIA fee itemization form will be provided by the SCD with the response. The SCD requires payment in full of all fees incurred in processing a FOIA request before delivering the final, responsive documents. The amount invoiced must be paid within ninety (90) days.
- C. The SCD's decision to deny access to public records sought by a FOIA request because those records are, in whole or in part, exempt from disclosure does not excuse the person who files that FOIA request from payment of fees for the work undertaken by the SCD in response to that request.
- D. The SCD may waive or reduce the fees it is authorized to charge if it determines that a waiver or reduction of the fee is in the public interest because responding to the FOIA request can be considered as primarily benefiting the general public.
- E. Fee reductions or waivers are required in certain instances involving proven indigence or non-profit organizations. The SCD will apply these reductions or waivers in accordance with the statute.

#### **5. Procedures for Challenge and Appeal**

- A. If the SCD denies a request in whole or in part, the requester may:
  - I. Submit an appeal to the Head of the Public Body, which for the purpose of these Procedures and Guidelines is the Chairperson of the SCD, in writing, via the FOIA Administrator using the contact information listed in Item 1, above. The appeal must specifically use the word "appeal" and identify the reason(s) the requester seeks reversal of the denial. The Head of

the Public Body must respond to the appeal within ten (10) business days by doing one of the following:

- a. Reversing the FOIA Administrator's decision
- b. Upholding the FOIA Administrator's decision
- c. Reversing in part and upholding in part the FOIA Administrator's decision
- d. Issuing a notice of extension for not more than ten (10) additional business days.

**II. Commence a civil action in the Court of Claims within one hundred eighty (180) days after the SCD's final determination to deny a request.**

- B. If a requester believes that the SCD has required payment of a fee that exceeds the amount permitted under these Procedures and Guidelines, he or she may commence an action in the Court of Claims for a fee reduction within forty-five (45) days after receiving the notice of the required fee.
- C. If a requester has questions regarding any FOIA response, including estimated fees or actual fees assessed, the requester should not hesitate to contact the FOIA Administrator by email at is [melissa.higbee@mi.nacdnet.net](mailto:melissa.higbee@mi.nacdnet.net) or telephone at: (989) 723-8263 ex. 3.