



## Charter Township of Shelby 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 with the Michigan Freedom of Information Act (FOIA).

### **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](mailto: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, or electronically (email or online form). Please see *Appendix A* for the Request Form. Verbal requests can be directed to the Human Resources Department.

Freedom of Information Act requests from a person other than an individual who qualifies as indigent must include the requesting person's complete name, address, and contact information, and if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. The FOIA Request 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 the 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



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Shelby Township will respond to all requests on time 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 by 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. The 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, and certain law enforcement information.



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### 2.7 Denial of Request

Requests for exempt public records and 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 FOIA 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 that 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](http://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



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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. For 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 are charged at the rate of the lowest-paid employee who is 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 the 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 are 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.
- 1) 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 that exceeds the time permitted under MFOIA up to a maximum 50% reduction if the following apply:
- a) The request clearly noted in the body of the document that this was a request for information
  - b) 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 \$50.00, 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



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- 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 that includes an itemization of 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 \$20.00 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:



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- 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.




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## Appendix A

 Charter Township of Shelby 52700 Van Dyke Ave. Shelby Township, MI 48316 (586) 731-5100		ID# _____
<b>Freedom of Information Act – Request for Public Records</b> Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.		
Date Submitted: _____ Check if received via: <input type="checkbox"/> email <input type="checkbox"/> fax <input type="checkbox"/> mail <input type="checkbox"/> in-person <input type="checkbox"/> spam/junk folder Date Received: _____ <span style="float: right;">**All Fields are required**</span>		
(Please print or type) Name: _____ Phone: _____ Firm/Organization: _____ Fax: _____ Street: _____ Email: _____ City: _____ State/Zip Code: _____		
<b>Request for:</b> <input type="checkbox"/> Electronic copy <input type="checkbox"/> Paper Copy <input type="checkbox"/> Record Inspection <input type="checkbox"/> Subscription to record issued on regular basis <b>Delivery Method:</b> <input type="checkbox"/> Will pick up <input type="checkbox"/> Will make own copies onsite <input type="checkbox"/> Mail to address above <input type="checkbox"/> Email to address above <input type="checkbox"/> Delivered on digital media provided by the Township. (note that the Township is not required to provide records in a digital format or on digital media if the Township does not already have the technological capability to do so)		
<b>Describe the public record(s) as specifically as possible. You may attach additional pages if necessary.</b> Address, Parcel number, Permit, or incident number: Requested Public Record: _____ _____ _____ _____ _____ _____		
<b>Consent to non-statutory Extension of The Township's Response Time:</b> I have requested public records pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq. I understand that the Township must respond to this request within five (5) business days after receiving it and that the response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the Township's response for this request until (month, day, year). I agree to reimburse the Township for allowable costs incurred in the processing of this request. Based upon the Township's FOIA policy, I agree to submit 50% of the estimated total costs if the estimated fee exceeds \$50.00. I confirm the balance of the fees incurred will be paid before the public record(s) are released to me. Failure to pay a FOIA deposit within 45 days indicates that the requestor has abandoned the request.		
Requestor's Signature _____		Date _____
<b>OFFICE USE ONLY</b>		
Due Date _____		Extension Date _____
Record Holder Departments: _____		
Invoice Sent: _____	Documents Sent: _____	Finalized: _____

<b>Overtime Labor Costs</b>	
Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.	
<b>Consent to Overtime Labor Costs</b>	
I hereby agree and stipulate to the Township use overtime wages in calculating the following labor costs as itemized in the following categories:	
<input type="checkbox"/> Labor to copy/duplicate <input type="checkbox"/> labor to locate <input type="checkbox"/> labor to redact <input type="checkbox"/> contract labor to redact <input type="checkbox"/> labor to copy/duplicate records already on the Township's website	
<b>Requestor's Signature</b> _____	<b>Date</b> _____
<b>Request for Discount: Indigence</b>	
A public record search must be made, and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this Act and who:	
1. Submits an affidavit stating that the individual is indigent and receiving public assistance, OR 2. If not receiving public assistance, stating facts showing the inability to pay the cost because of indigence. If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if ANY of the following apply: 1. The individual has previously received discounted copies of public records from the same public body twice during that calendar year. 2. The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.	
<input type="checkbox"/> I am requesting an affidavit for the discount for indigence be sent to me. The completed affidavit and proofs shall be submitted to <a href="mailto:FOIA@shelbytp.org">FOIA@shelbytp.org</a>	
<b>Requestor's Signature</b> _____	<b>Date</b> _____
Office Use: <input type="checkbox"/> affidavit received <input type="checkbox"/> Eligible <input type="checkbox"/> Ineligible	
<b>Request for discount: Nonprofit Organization</b>	
A public record search must be made, and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act if the requests meet all of the following requirements:	
1. Is made directly on behalf of the organization or its clients 2. Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931 3. Is accompanied by documentation of its designation by the state, if requested by the Township.	
<input type="checkbox"/> I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its clients and is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931 and I will forward documentation of this designation to <a href="mailto:FOIA@shelbytp.org">FOIA@shelbytp.org</a> in support of the requirements listed above.	
<b>Requestor's Signature</b> _____	<b>Date</b> _____
Office Use: <input type="checkbox"/> documentation of state designation received <input type="checkbox"/> Eligible <input type="checkbox"/> Ineligible	

 Shelby Township Police Department 52500 Van Dyke Ave. Shelby Township, MI 48316 (586) 731-2121		ID# _____
<b>Freedom of Information Act – Request for Public Records</b> Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.		
Date Submitted: _____ Check if received via: <input type="checkbox"/> email <input type="checkbox"/> fax <input type="checkbox"/> mail <input type="checkbox"/> in-person <input type="checkbox"/> spam/junk folder Date Received: _____ <span style="float: right;">**All Fields are required**</span>		
(Please print or type) Name: _____ Phone: _____ Firm/Organization: _____ Fax: _____ Street: _____ Email: _____ City: _____ State/Zip Code: _____		
<b>Request for:</b> <input type="checkbox"/> Electronic copy <input type="checkbox"/> Paper Copy <input type="checkbox"/> Record Inspection <input type="checkbox"/> Subscription to record issued on regular basis <b>Delivery Method:</b> <input type="checkbox"/> Will pick up <input type="checkbox"/> Will make own copies onsite <input type="checkbox"/> Mail to address above <input type="checkbox"/> Email to address above <input type="checkbox"/> Delivered on digital media provided by the Township. (note that the Township is not required to provide records in a digital format or on digital media if the Township does not already have the technological capability to do so)		
<b>Describe the public record(s) as specifically as possible. You may attach additional pages if necessary.</b> Incident Date(s): _____ Incident Number: _____ Involved Address(es): _____ Involved Person(s): _____ Description or other pertinent information: _____ _____ _____		
<b>Consent to non-statutory Extension of The Township's Response Time:</b> I have requested public records pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq. I understand that the Township must respond to this request within five (5) business days after receiving it and that the response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the Township's response for this request until (month, day, year). I agree to reimburse the Township for allowable costs incurred in the processing of this request. Based upon the Township's FOIA policy, I agree to submit 50% of the estimated total costs if the estimated fee exceeds \$50.00. I confirm the balance of the fees incurred will be paid before the public record(s) are released to me. Failure to pay a FOIA deposit within 45 days indicates that the requestor has abandoned the request.		
Requestor's Signature _____		Date _____
<b>OFFICE USE ONLY</b>		
Due Date _____		Extension Date _____
Invoice Sent: _____ Documents Sent: _____ Finalized: _____		

<b>Overtime Labor Costs</b>	
Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.	
<b>Consent to Overtime Labor Costs</b>	
I hereby agree and stipulate to the Township use overtime wages in calculating the following labor costs as itemized in the following categories:	
<input type="checkbox"/> Labor to copy/duplicate <input type="checkbox"/> labor to locate <input type="checkbox"/> labor to redact <input type="checkbox"/> contract labor to redact <input type="checkbox"/> labor to copy/duplicate records already on the Township's website	
<b>Requestor's Signature</b> _____	<b>Date</b> _____
<b>Request for Discount: Indigence</b>	
A public record search must be made, and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this Act and who:	
1. Submits an affidavit stating that the individual is indigent and receiving public assistance, OR 2. If not receiving public assistance, stating facts showing the inability to pay the cost because of indigence. If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if ANY of the following apply: 1. The individual has previously received discounted copies of public records from the same public body twice during that calendar year. 2. The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.	
<input type="checkbox"/> I am requesting an affidavit for the discount for indigence be sent to me. The completed affidavit and proofs shall be submitted to <a href="mailto:FOIA@shelbytp.org">FOIA@shelbytp.org</a>	
<b>Requestor's Signature</b> _____	<b>Date</b> _____
Office Use: <input type="checkbox"/> affidavit received <input type="checkbox"/> Eligible <input type="checkbox"/> Ineligible	
<b>Request for discount: Nonprofit Organization</b>	
A public record search must be made, and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act if the requests meet all of the following requirements:	
1. Is made directly on behalf of the organization or its clients 2. Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931 3. Is accompanied by documentation of its designation by the state, if requested by the Township.	
<input type="checkbox"/> I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its clients and is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931 and I will forward documentation of this designation to <a href="mailto:FOIA@shelbytp.org">FOIA@shelbytp.org</a> in support of the requirements listed above.	
<b>Requestor's Signature</b> _____	<b>Date</b> _____
Office Use: <input type="checkbox"/> documentation of state designation received <input type="checkbox"/> Eligible <input type="checkbox"/> Ineligible	



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

## 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](mailto:FOIA@ShelbyTwp.Org)

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

### F.O.I.A. Requests – Fee Schedule

Copy Paper	\$.03 per sheet
16" x 24" Plan Copies:	\$ 2.00 per sheet
CD/DVD	\$ 0.19 each
Flash drive	Purchase price
Postage	Actual USPS Cost
Mileage	Current IRS Reimbursement Rate

#### **Labor**

##### General Requests

Research	\$29.03 per hour (20.78 wage + cost of fringe benefit)
Duplication	\$29.03 per hour (20.78 wage + cost of fringe benefit)
Redaction	\$29.03 per hour (20.78 wage + cost of fringe benefit)

##### Police Department

Research (records clerk)	\$30.33 per hour (21.87 wage + cost of fringe benefit)
Research (records mgr.)	\$41.33 per hour (30.97 wage + cost of fringe benefit)
Duplication (records clerk)	\$30.33 per hour (21.87 wage + cost of fringe benefit)
Duplication (records mgr.)	\$41.33 per hour (30.97 wage + cost of fringe benefit)
Redaction (records clerk)	\$30.33 per hour (21.87 wage + cost of fringe benefit)
Redaction (records mgr.)	\$41.33 per hour (30.97 wage + cost of fringe benefit)

##### Contracted labor costs

Are only permitted if Shelby Township does not have an employee capable of performing this work and cannot exceed \$60.60 per hour. You will be notified prior to processing this request if the contracted labor estimated cost is applicable.

**Effective: July 1, 2024**