

- c. Record Retention. The FOIA Coordinator will retain a copy of all written requests for public records for no less than 1 year.

VI. TIME TO RESPOND

- a. When a Request is Considered Received. Requests submitted by mail are considered received on the day they arrive at the RCKC. A request made by fax, electronic mail, or other electronic transmission is not considered received until 1 business day after the electronic transmission is made.
- b. Response within Five Business Days; Extension. Unless otherwise agreed to in writing by the requester, the RCKC shall respond to the request within five (5) business days after receipt. However, the RCKC may issue a notice extending the time to respond for not more than ten (10) business days, which shall include the reason for the extension and the date by which the RCKC will respond. The RCKC shall not issue more than one (1) notice of extension for a particular request.

VII. FORM OF RESPONSE

- a. Within five (5) business days after the RCKC receives a request, the FOIA Coordinator shall respond to the request by:
 - i. Granting the request;
 - ii. Issuing a written notice denying the request;
 - iii. Granting the request in part and issuing a written notice denying the request in part; or
 - iv. Issuing a notice extending the time to respond by ten (10) business days.
- b. Failure to respond to a request shall only constitute a final determination to deny the request if:
 - i. Failure was willful and intentional; OR
 - ii. Written request included language requesting information within first 250 words of body of request or the envelope or subject line of the email, letter, or fax included the following words, characters or abbreviations, or recognizable misspellings: "Freedom of Information", "Information", "FOIA", "Copy".
- c. Denial of Request. To the extent a request, or any portion thereof, is denied, the written response shall be signed by the FOIA Coordinator and shall contain all of the following:
 - i. An explanation of the basis for denial under FOIA or another statute, if that is the reason for denying the request;
 - ii. A certificate that the public record does not exist under the name given or by another name reasonably known, if that is the reason or denying the request;
 - iii. A description of a public record or information on a public record that is separated or deleted, if such separation or deletion is so made;
 - iv. A full explanation of the requestor's right to appeal to the Managing Director or to seek judicial review of the denial; and
 - v. Notice of the right to receive attorney's fees and damages if the court determines the RCKC has not complied.

- ii. Issue a written notice denying the request- This notice will contain an explanation as to why the RCKC has denied the request. A request will be denied if the information requested is exempt from disclosure under FOIA or another statute, or if the requested public record does not exist.
 - iii. Grant the request in part and issue a written notice denying in part the request- If some of the requested public record is exempt from disclosure, the RCKC will make the non-exempt portions of the public record available for inspection or will provide copies.
 - iv. Issue a notice indicating that due to the nature of the request the RCKC needs an additional 10 business days to respond. The RCKC may issue one 10 day extension.
 - v. Issue a written notice indicating that the public record requested is available at no charge on the RCKC's website. If the requested public records are posted on the RCKC's website, the RCKC will provide with reasonable specificity the location of these public records.
- c. If the request is granted, or granted in part, the RCKC will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the RCKC will require a deposit before processing the request.

3. What are the RCKC's deposit requirements?

- a. If the RCKC has made a good faith calculation that the total fee for processing the request exceeds \$50.00, the RCKC will require that you provide a deposit in the amount of 50% of the total estimated fee. When the RCKC requests the deposit it will provide you a non-binding best efforts estimate of how long it will take to complete your request following receipt by the RCKC of your deposit.
- b. If you have not paid the RCKC for copies of public records made in fulfillment of a previously granted written request, the RCKC will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when certain conditions exist.

4. How does the RCKC calculate the fee for completing a FOIA request?

- a. There are six fee components the RCKC will charge for, and which are provided in more detail in the FOIA Policy/Procedures and Guidelines and the Fee Itemization Form:
 - i. Labor costs for searching for, locating, and examining public records;
 - 1. Cost will be charged in 15 minute increments with all partial time rounded down.
 - 2. Cost will be the hourly wage of the lowest-paid employee capable of performing the tasks, regardless of who actually

- performs the task, and will also include a charge to cover or partially cover the cost of fringe benefits.
- ii. Labor costs for redacting public records;
 - 1. Cost will be charged in 15 minute increments with all partial time rounded down.
 - 2. Cost will be the hourly wage of the lowest-paid employee capable of performing the tasks, regardless of who actually performs the task, and will also include a charge to cover or partially cover the cost of fringe benefits.
 - 3. If the FOIA Coordinator determines there is no employee capable of redacting the exempt information, the FOIA Coordinator may contract for the labor and treat the contracted labor costs in the same manner as employee labor costs, but the hourly rate charged may not exceed six times the State's minimum hourly wage rate.
 - iii. Copies provided on non-paper physical media;
 - 1. The fee charged will be the actual and most reasonably economical cost of the non-paper physical media, such as computer discs, computer tapes, or other digital or similar media.
 - iv. Copies provided on paper;
 - 1. The RCKC will charge \$0.10 per sheet of paper for copies made on 8 ½ by 11-inch or 8 ½ by 14-inch paper.
 - 2. The fee for all other sized paper will be the actual and total incremental cost.
 - v. Labor costs for duplication or publication of the public records;
 - 1. Cost will be charged in 1 minute increments with all partial time rounded down.
 - 2. Cost will be the hourly wage of the lowest-paid employee capable of performing the tasks, regardless of who actually performs the task, and will also include a charge to cover or partially cover the cost of fringe benefits.
 - vi. Mailing the public records.
 - 1. The fee charged shall be the actual cost of mailing the public records in a reasonably economical and justifiable manner.
 - 2. The RCKC may charge for the least expensive form of postal delivery confirmation.
- b. The portion of the labor costs related to searching for, locating and examining a public record, and deleting and separating exempt from non-exempt information will only be charged if the cost to the RCKC is unreasonably high. The RCKC will determine whether completing a FOIA request results in an unreasonably high cost on a case-by-case basis, based on the nature of the particular request.

5. How do I challenge the denial of a public record?

- a. If your FOIA request was denied in whole or in part and you believe this denial was improper, you may file an appeal with the Managing Director.

The appeal must be in writing, must specifically include the word “appeal” and must identify the reason or reasons you believe the denial was improper.

- b. Within 10 business days of receiving the appeal, the Managing Director will respond in writing to do one of the following:
 - i. Reverse the denial;
 - ii. Issue a written notice upholding the denial;
 - iii. Reverse the denial in part and issue a written notice to uphold the denial in part; or
 - iv. Issue a notice extending the response period for up to 10 business days.
- c. Within 180 days after receiving a final determination from the Managing Director or the RCKC has failed to respond, you may commence a civil action.

6. How do I challenge an excessive fee?

- a. If you are charged a fee that you believe exceeds the amount permitted under FOIA and the Procedures and Guidelines, you may submit a written appeal for a fee reduction to the Managing Director. This written appeal must include the word “appeal” and identify how the fee exceeds the amount permitted. The RCKC will respond within 10 business days of receiving the appeal and shall do one of the following:
 - i. Waive the fee;
 - ii. Reduce the fee and issue a written determination of the specific basis supporting the remaining fee, with a certification from the Managing Director that the statements are accurate and the fee amount complies with the Procedures and Guidelines and FOIA;
 - iii. Uphold the fee and issue a written determination indicating the specific basis supporting the fee, with a certification from the Managing Director that the statements are accurate and the fee amount complies with the Procedures and Guidelines and FOIA; or
 - iv. Issue notice extending the response period for up to 10 business days and detailing why the extension is necessary.
- b. Within 45 days after a determination of an appeal to the Managing Director is received or the RCKC has failed to respond, you may commence a civil action.

**FOIA Fee Itemization Form
(Effective July 1, 2015)**

Component	Cost Calculations	Total
1. Labor Costs – Search, Location ,and Examination of Records*	<p>Enter the hourly wage of lowest paid employee capable of performing the search, location and examination $\\$ ______ \text{ per hour}$</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) $______ \%$</p> <p>Multiply the hourly wage times the fringe benefit multiplier $\\$ ______ \times 1.______ = \\$ ______$</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) $\\$ ______ + ______ = \\$ ______$</p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment $\\$ ______ / 4 = \\$ ______$</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate $______ \times \\$ ______ = \\$ ______$</p>	<p>$\\$ ______$</p>
2. Employee Labor Costs – Redaction*	<p>If performed by the public body’s employee:</p> <p>Enter the hourly wage of lowest paid employee capable of performing the redaction $\\$ ______ \text{ per hour}$</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information</p>	

	<p>is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)</p> <p style="text-align: right;">_____ %</p> <p>Multiply the hourly wage times the fringe benefit multiplier</p> <p style="text-align: right;">\$ _____ x 1. _____ = \$ _____</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)</p> <p style="text-align: right;">\$ _____ + _____ = \$ _____</p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment</p> <p style="text-align: right;">\$ _____ / 4 = \$ _____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p style="text-align: right;">_____ x \$ _____ = \$ _____</p>	<p>\$ _____</p>
<p>2. Contracted Labor Costs – Redaction*</p>	<p>If performed by Contracted Labor (Only permitted if the public body does not employ a person capable of redacting the records as determined by the FOIA Coordinator):</p> <p>Name of person or firm contracted:</p> <p>_____</p> <p>Enter the hourly rate charged by the contractor (may not exceed six (6) times the State minimum wage (i.e. \$8.15x6=\$48.90)</p> <p style="text-align: right;">\$ _____ per hour</p> <p>Divide the hourly rate by four (4) to determine the charge per fifteen (15) minute increment</p> <p style="text-align: right;">\$ _____ / 4 = \$ _____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p style="text-align: right;">_____ x \$ _____ = \$ _____</p>	<p>\$ _____</p>
<p>3. Non-Paper Physical Media</p>	<p>Actual and most reasonably economical cost of:</p> <p>Flash Drives \$ _____ x number used _____ = \$ _____</p> <p>Computer Discs \$ _____ x number used _____ = \$ _____</p> <p>Other Media \$ _____ x number used _____ = \$ _____</p>	<p>\$ _____</p>

4. Paper Copies	<p>Actual total incremental cost of duplication (not including labor) up to a <u>maximum of 10 cents per page</u>:</p> <p>Letter paper (8 ½” x 11”) number of sheets ___ x \$0.____ = \$_____</p> <p>Legal paper (8 ½” x 14”) number of sheets ___ x \$0.____ = \$_____</p> <p>Actual cost of other types of paper:</p> <p>Type of Paper: _____ number of sheets ___ x \$_____ = \$_____</p> <p>Type of Paper: _____ number of sheets ___ x \$_____ = \$_____</p> <p>(NOTE: Must print double-sided if available and costs less.)</p>	<p>\$_____</p>
5. Labor Cost – Duplication Copying, and transferring records to non-paper physical media	<p>Enter the hourly wage of lowest paid employee capable of performing the duplication, copying, or transferring digital records to non-paper physical media \$_____ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) _____%</p> <p>Multiply the hourly wage times the fringe benefit multiplier \$_____ x 1.____ = \$_____</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) \$_____ + _____ = \$_____</p> <p>Divide the resulting hourly wage by _____ to determine the charge per _____ () minute increment \$_____ / 60 = \$_____</p> <p>(NOTE: May use any time increment for this category)</p>	
	<p>Number of ___ minute increments (partial time increments must be rounded down) multiplied by the permitted rate _____ x \$_____ = \$_____</p>	<p>\$_____</p>
6. Mailing	<p>Actual cost of mailing records in a reasonable and economical manner:</p> <p>Cost of mailing: \$_____</p> <p>Cost of least expensive form of postal delivery confirmation:</p>	

	\$ _____	
	Cost of expedited shipping or insurance only if specifically stipulated by the requestor:	
	\$ _____	\$ _____
	Subtotal	\$ _____
Waivers and Reductions	<p>Subtract any Fee Waiver or Reduction: \$20.00 for indigency or nonprofit organization as further described in the Public Body's procedures and guidelines.</p> <p>Any amount determined by the Public Body due to the search and furnishing of the Public Record determined to be in the public interest. \$ _____</p> <p>The reduction amount due to the late response of the Public Body. 5% of fee x ____ days late = _____% reduction (maximum reduction is 50%)</p>	-\$ _____
Deposit	Subtract any good-faith deposit received: \$ _____	-\$ _____
	Total Due	\$ _____

*Note: Labor costs for search, location, examination and redaction (categories 1 and 2 on the itemization form) may not be charged unless the failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

The Court of Appeals has interpreted this provision to require that the determination be made relative to the usual or typical costs incurred by the public body in responding to FOIA requests. The key factor in determining whether the costs are "unreasonably high" is the extent to which the particular request differs from the usual request. *Bloch v Davison Cmty Schools*, (Mich.App. Apr. 26, 2011), 2011 WL 1564645.



**ROAD COMMISSION OF KALAMAZOO COUNTY (RCKC)
Freedom of Information Act Request Form**

Date: _____

Name: _____

Address: _____

Telephone Number: _____

E-mail Address: _____

Records Requested: *Be specific and provide as much detail as possible to ensure that the RCKC is able to identify the information being requested.*

I would like the materials provided to me in the following way:

- Mailed to the above address
- Call above phone number and I will pick up the documents
- Electronically to the following email address: _____

Please note that the RCKC has five (5) business days after the receipt of this request to process your request.

Road Commission of Kalamazoo County FOIA Coordinator

3801 East Kilgore Road

Kalamazoo, MI 49001

(269)381-3171

Fax: (269)381-1760

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