



Freedom of Information Act Policies and Procedures

Purpose

Bay County Conservation District will ensure that all persons are granted full and complete information regarding the affairs of the Bay County Conservation District as provided by the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976.

FOIA Coordinator

In accordance with FOIA (MCLA 15.236), the Bay County Conservation District Board of Directors has designated the District Administrator as the FOIA Coordinator who is responsible for accepting and processing FOIA requests, and approving any denials of such requests.

Procedures

Submitting Requests

Michigan Freedom of Information Act (FOIA) requests are to be made in writing. Requests may be submitted in person, through mail, fax, or email. Request form is attached to this policy. Forms received by electronic submission (fax, email) are considered received one business day after the electronic transmission is made. If the request is submitted by email and the email request is held or quarantined in the District's spam or junk folder, the request shall be deemed received one business day after the District first became aware of the request.

Processing Requests

All staff must promptly forward FOIA requests to the FOIA coordinator (District Administrator) upon receipt. The FOIA Coordinator shall maintain a log of all written requests received, showing the nature and date of the request, determination of disposition, date of disposition, and manner of final response to the FOIA request. The FOIA Coordinator shall provide one of the following responses not more than five business days after a request for public records. The Bay County Conservation District can notify the requested in writing and extend the time for an additional ten business days.

Response A: Grant the Request: Make the records available to the requestor.



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Response B: Deny the Request: Submit a written notice denying the request, stating the reasons for denial, including an explanation of the requestor's right to seek an appeal of the FOIA Coordinator's decision to the District's Board of Directors. Denial may be made because, among other reasons, the record does not exist, it cannot be sufficiently identified from the description contained in the request, or the record is exempt from disclosure. Failure to respond at all constitutes a denial.

Response C: Grant the Request in Part and Deny the Request in Part: Grant the request in part and issuing a written notice to the requestor denying the request in part.

Response D: Request an Extension: The FOIA Coordinator may issue a notice extending the response period to no more than fifteen business days. Only one extension will be allowed per request.

Fees

The FOIA permits the District to charge the requester a fee for labor costs, copies, mailing, and other costs associated with responding to the request for public records. If it takes less than fifteen (15) minutes or less than ten (10) copies to respond to the FOIA request, there will only be a postage fee (digital records are exempt for duplication). For any requests requiring more than fifteen minutes of staff time or more than ten copies, the following fees are as follows.

Labor cost to search, locate, examine, separate and duplicate records: Such labor costs shall be estimated and charged in fifteen (150 minute increments). The hourly wage will be based on the District's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the costs of fringe benefits, not to exceed the actual costs of the benefits. The District will calculate labor costs using the hourly wage of the District's lowest paid employee capable of performing the required tasks, whether or not they are available or actually perform the labor.



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Services performed by an outside contractor or legal counsel: In the event that the District uses a contract or outside labor to separate and redact exempt material from non-exempt material, it will identify the name of the person or firm who does the work. In such circumstances, the total labor cost charged will not exceed an amount six (6) times the minimum hourly wage in the State of Michigan.

Copying charges: Duplication of public records and documents shall be charged at the rate of \$0.10 per page.

Mailing: The District will charge the actual cost of postage, or express service, if requested.

Material Cost: Electronic files such as CDs, DVDs, flash drives, or other electronic media materials are exempt. However, the cost of paper used in duplicating records, as well as postage will be charged.

The record will be sent to the requestor when complete, according to the timelines stated above. If the fee is anticipated to be less than \$50.00, the requester will be notified that the record will be available in accord with the timelines above, once the applicable payment is received. If the fee is anticipated to be more than \$50.00, the requester will be notified that the request will be processed once a deposit equal to 50% of the anticipated fee is received.

If a person submits an affidavit of indigence, stating they are receiving public assistance or sufficiently states facts showing an inability to pay the applicable fee because of indigence, the first \$20.00 of the fee shall be waived.



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Exemptions to FOIA Requests

The FOIA Coordinator may exempt from disclosure any records identified as exempt from disclosure in Section 13 of the FOIA:

- a. The MCD has the capability of only permitting the reproduction of analogue data. Digital data, including electronic files such as CDs, DVDs, flash drives, or other electronic media materials, including email transfer, are exempt.
- b. That portion of any public record disclosing a person's social security number.
- c. Information protected under the Family Educational Rights and Privacy Act of 1974.
- d. Minutes of any closed session meeting, disclosure of which is prohibited by the Open Meetings Act.
- e. Any other public record, information or material, the disclosure of which is prohibited by law.

Appeal of Denial

If a person's request for a public record is denied, in whole or in part, the person may file a written appeal. The appeal shall state the word "appeal" and identify the reason or reasons for the reversal of the denial. The FOIA Coordinator will submit the appeal to the District Board of Directors who may reverse or uphold the initial decision, or a combination thereof.

Record Retention

The FOIA Coordinator shall maintain all FOIA requests on file for a minimum of one (1) year.



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