

BAY COUNTY ROAD COMMISSION

FREEDOM OF INFORMATION ACT POLICY

Bay County Road Commission (BCRC) documents and records are available to the public for inspection and/or copying in accordance with the Freedom of Information Act (FOIA) upon receipt of a written request, which specifically describes the exact public record(s) desired, unless exempted from disclosure by Section 13 of the Act or other law. Compliance with FOIA does not require that BCRC create new public records, nor make a compilation, summary, or other report of information in order to satisfy a request.

All FOIA requests must be made in writing. Requests made by facsimile copy or electronic mail are acceptable. A FOIA request received by facsimile copy, electronic mail, or by other electronic means, is deemed received the first business day following its transmission. Written requests will be forwarded to the FOIA Coordinator for response.

The Engineer-Manager is the designated FOIA Coordinator. In his/her absence, the Finance Director, or his/her designee, shall act as the FOIA Coordinator. The FOIA Coordinator has the authority to issue notices extending response time or to deny requests, in whole or part, on behalf of BCRC.

Legal Counsel should review all denials and non-routine requests prior to response. The FOIA Coordinator will keep a copy of all written requests for public records and all responses on file for not less than one year from the date of the response.

The FOIA Coordinator will respond in writing to a FOIA request within five (5) business days of receipt, with one of the following actions:

1. Grant the request;
2. Deny the request;
3. Grant the request in part and deny the request in part;
4. Issue a notice extending for not more than ten (10) business days the period during which BCRC will respond to the request. The notice will include the date by which BCRC will respond to the request.

In the event of a denial of a FOIA request, in whole or in part, the response will contain:

1. An explanation of the basis under the Act or other statute that the public record, or portion of public record, is exempt from disclosure, if that is the reason for denying the request.
2. Certification that the record does not exist under the name provided by the requester or under another name reasonably known to BCRC, if that is the reason for denying the request.
3. A description of a public record or information in a public record that is separated or deleted pursuant to Section 14 of the Act, if a separation or deletion is made.

4. A full explanation of the requesting party's right to appeal or request judicial review of the denial and to receive attorney's fees and damages in appropriate cases.

In the event of an appeal, the Board of County Road Commissioners, County of Bay will serve as the governing body responsible for hearing the appeal. Appeals should be submitted in writing addressed to the Chairperson of the Board of County Road Commissioners in care of the FOIA Coordinator. The Board will address the appeal at the next regularly scheduled meeting after the appeal is received and will respond to the appeal within ten days after the Board meeting.

Upon receipt of a written request to review a public record, BCRC will make the record(s) reasonably available for supervised inspection unless the request is denied in whole or in part as provided in this policy. A mutually convenient time will be determined during BCRC's normal business hours. The records will be made available within five (5) business days of receipt of the request, unless the time period for response has been extended as provided in this policy.

A BCRC employee, to ensure the integrity of the records, will supervise their inspection. Upon completion of the inspection, the employee will provide copies of inspected documents as requested according to the guidelines outlined in this policy. Records must remain in the office where they are being inspected, and no unauthorized alteration, defacement, mutilation, destruction or removal is permitted.

Fees will be assessed as allowed by law for the services performed by BCRC employees relating to the processing of FOIA requests as follows:

1. Labor costs directly associated with the necessary searching for, locating, and examining of BCRC records in conjunction with receiving and fulfilling a granted written request. Labor costs for this purpose shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down;
2. Labor costs, including necessary review, if any, directly associated with separating and deleting exempt information from nonexempt information. Labor costs for this purpose shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down;
3. The actual total incremental cost of necessary duplication, not including labor, calculated at the cost of 10 cents per sheet of paper;
4. The cost of labor directly associated with duplication. Labor costs for this purpose shall be estimated and charged in time increments of BCRC's choosing, with all partial time increments rounded down;
5. Actual mailing costs; and,
6. Any other fees or costs allowed by law.

In calculating the labor costs authorized by this policy, BCRC will not charge more than the hourly wage of the lowest paid BCRC employee capable of retrieving the information necessary to comply with the request. BCRC will also add the actual cost of fringe benefits, up to 50% of the applicable labor charge amount, to cover or partially cover fringe benefit costs, and will note the percentage multiplier used to account for benefits in a detailed itemization provided to the requesting party.

Should the estimated fees exceed fifty (\$50) dollars, a good faith deposit of 50% of the total estimated fee will be required prior to the processing of the FOIA request. The FOIA Coordinator may grant waivers of the deposit and/or portion of the processing fees. A public record search and a copy of the public record will be without charge for the first twenty (\$20) dollars of the fee for each request by an eligible individual who submits an affidavit that they are then receiving public assistance or showing inability to pay because of indigence.

Bay County Road Commission
Notice of Freedom of Information Act Response

1. Name and Address of Requester:

2. Manner in which request was submitted (Circle one):

U.S. mail Personal Delivery Facsimile E-mail

Other electronic means: _____

Date written request received by BCRC (if received by facsimile, e-mail, or other electronic means, request will be deemed received on next business day): _____

Public records requested:

3. Written request (Circle One):

Granted Denied (Cite Reason) – Include section/subsection if exemption is claimed.

(See Section 9 for appeal rights.)

Granted in part and Denied in part because (include section/subsection if exemption is claimed)

(See Section 9 for appeal rights.)

Response period extended up to an additional 10 business days to _____

Notice of Freedom of Information Act Response (cont'd)

Fee incurred in responding to request:

Labor costs for search, location, and examination:

x \$_____hourly wage = \$_____Multiplier for fringe benefits_____%

Labor costs for separation and deletion of exempt information from nonexempt information:

x \$_____hourly wage = \$_____Multiplier for fringe benefits_____%

Labor costs for duplication:

x \$_____hourly wage = \$_____Multiplier for fringe benefits_____%

of Pages x \$0.10 per page \$_____ Actual costs for postage \$_____

Other \$_____

Total Costs \$_____

First \$20 of fee waived (Affidavit of Public Assistance or Indigency submitted or accepted). Please submit \$_____

Because estimated fee exceeds \$50, deposit of one-half the total amount due must be received by the BCRC prior to the BCRC's response. The deposit of \$_____ shall be payable by check or money order to the "Bay County Road Commission." Remit to Bay County Road Commission, FOIA Coordinator, 2600 E. Beaver Road, Kawkawlin, MI 48631-9402, with a copy of this notice.

Upon receipt of fees where applicable, requested information will be:

Mailed to (if different than Line 1)

Emailed at requester's direction to: _____

Faxed at requester's direction to: _____

To be paid for and picked up in person at BCRC office.

Estimated time frame in which BCRC will be able to provide the requested documents:

Date of Response: _____

Mailed: _____ ,201__

E-mailed: _____, 201__

Faxed: _____, 201__

Personal delivery: _____,201__

Description of appeal rights due to denial of requested records.

Per Section 5(4)(d)(i) of FOIA, you may submit to the Chairperson of the Bay County Board of Road Commissioners a written appeal that specifically states the word "appeal" and that identifies the reason(s) for the requested reversal of the denial. The appeal should be mailed to the **Board Chairperson, care of the FOIA Coordinator, at the Bay County Road Commission's address, Attention: FOIA Board Appeal.** The Board will address the appeal at the next regularly scheduled meeting after the appeal is received and will respond to the appeal within ten (10) days after the Board meeting.

Alternately, you may seek judicial review of the denial under Section 10 of FOIA. Such review will be in the Circuit Court for Bay County. If you prevail in your court action, FOIA Section 10(6) provides: "The court shall award reasonable attorneys' fees, costs, and disbursements. " If you or the Road Commission prevail in part, "... the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. " Section 10 also provides for payment of damages in certain cases.

By: Engineer-Manager
Designated FOIA Coordinator
Bay County Road Commission
2600 E. Beaver Road Kawkawlin, MI 48631-9402
Phone: (989) 686-4601