



Public Summary of FOIA Procedures and Guidelines

It is the public policy of the City of Traverse City Downtown Development Authority (DDA) 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.

**Harry Burkholder, Executive Director
FOIA Coordinator
303 E. State St., Ste. C
Traverse City, MI 49684
231.922.2050
harry@downtowntc.com**

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, as amended, the following is the Written Public Summary of the City of Traverse City Downtown Development Authority's FOIA Procedures and Guidelines relevant to the general public.

This is only a summary of the DDA's FOIA Procedures and Guidelines. For more details and information, copies of the DDA's FOIA Procedures and Guidelines are available at no charge at the DDA Office and on the DDA's website: www.downtowntc.com

1. How do I submit a FOIA request to the DDA?

- A request must sufficiently describe a public record to enable the DDA to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the DDA in providing a prompt response. The DDA has a FOIA Request form for your convenience on their website at www.downtowntc.com
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the DDA may be submitted on the DDA's FOIA Request form or in any other form of writing (letter, fax, email, etc.).
 - No specific form of submitting a written request is required. However, a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the DDA's website www.dda.downtowntc.com
- Written requests may be delivered to the FOIA Coordinator's Office in person or by mail to:
Harry Burkholder, Executive Director/FOIA Coordinator, 303 E. State St., Ste. C, Traverse City, MI 49684

Requests may be faxed to: **(231) 922-4863**. To ensure a prompt response, faxed requests should contain the term “FOIA” or “FOIA Request” on the first/cover page.

Requests may be emailed to: **harry@downtowntc.com**. To ensure a prompt response, email requests should contain the term “FOIA” or “FOIA Request” in the subject line.

2. What kind of response can I expect to my request?

- Within 5 business days after receiving a FOIA request the DDA will issue a response. If a request is received by fax or email, the request is deemed to have been received on the following business day. The DDA will respond to your request in one of the following ways:
 - Grant the request.
 - Issue a written notice denying the request.
 - Grant the request in part and issue a written notice denying in part the request.
 - Issue a notice indicating that due to the nature of the request the DDA needs an additional 10 business days to respond: or
 - Issue a written notice indicating that the requested public record is available at no charge on the DDA’s website
- For instances where the requested public record is available on the DDA’s website, the DDA will indicate so.
- If the request is granted, or granted in part, the DDA 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 DDA will require a deposit before processing the request.

3. What are the DDA’s deposit requirements?

- If the DDA has made a good faith calculation that the total fee for processing the request will exceed \$50.00, the DDA may require that you provide a deposit in the amount of 50% of the total estimated fee. When the DDA requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.
- If the DDA receives a request from a person who has not paid the DDA for copies of public records made in fulfillment of a previously granted written request, the DDA may 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 **all** of the following conditions exist:
 - The final fee for the prior written request is not more than 105% of the estimated fee;
 - The public records made available contained the information sought in the prior written request and remained in the DDA's possession.
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by the DDA to provide the records.

- Ninety (90) days have passed since the DDA notified the individual in writing that the public records were available for pickup or mailing.
 - The individual is unable to show proof of prior payment to the DDA; and
 - The DDA has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The DDA will not require the 100% estimated fee deposit if any of the following apply:
 - The person making the request is able to show proof of prior payment in full to the DDA.
 - The DDA is subsequently paid in full for all applicable prior written requests; or
 - Three hundred sixty-five (365) days have passed since the person made the request for which full payment was not remitted to the DDA.

4. How does the DDA calculate FOIA processing fees?

The Michigan FOIA statute permits the DDA to charge for the following costs associated with processing a request:

- Labor costs are associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- Labor costs associated with searching for, locating and examining a requested public record.
- Labor costs are associated with a review of a record to separate and delete information exempt from disclosure.
- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the DDA's website if you ask for the DDA to make copies.
- The cost of flash drives or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on the DDA's website if you ask for the DDA to make copies.
- The cost to mail or send a public record to a requester.

Labor Costs

- All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid DDA employee capable of doing the work in the specific fee category, regardless of who actually performs work and will also include a 40% charge to cover or partially cover the cost of fringe benefits.

- Overtime wages will not be included in labor costs unless agreed to by the requester; overtime costs will not be used to calculate the fringe benefit cost.

A labor cost will not be charged for the search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the DDA. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the DDA's usual FOIA requests, because of the nature of the request in the particular instance. The DDA must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

The DDA must use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such as flash drives or other digital media devices, the actual and most reasonably economical cost for the non-paper media will be charged.

Paper Copies

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper.
- Copies for non-standard sized sheets will reflect the actual cost of reproduction.

Mailing Costs

- The cost to mail public records will use a reasonably economical and justified means.
- The DDA may charge for the least expensive form of postal delivery confirmation.
- The DDA may charge for expedited shipping or insurance if such method of delivery has been requested by the requester.

Waiver of Fees

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefiting the general public. The DDA may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

5. How do I qualify for an indigence discount on the fee?

The DDA will discount the first \$20.00 fee for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or

- If not receiving public assistance, stating facts demonstrate an inability to pay because of indigence.

You are **not** eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the DDA twice during the calendar year; or
- Are requesting information on behalf of other people who are offering or providing payment to you to make the request.

An affidavit is a sworn statement. For your convenience, the DDA has provided an Affidavit of Indigence for the waiver of FOIA fees on its website: www.downtowntc.com

6. May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is formally designated by the state to carry out activities under subtitle C of the federal developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, may receive a \$20.00 discount if the request meets all of the following requirements in the Act:

- Is made directly on behalf of the organization or its clients.
- 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.
- Is accompanied by documentation of its designation by the state, if requested by the public body.

7. How may I challenge the denial of a public record or fee?

Appeal of a Denial of a Public Record

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal the FOIA Coordinator's decision by filing a written appeal of the denial with the DDA Board Chair at the following: **City of Traverse City Downtown Development Authority, DDA Board Chair, 303 E. State St., Ste. C, Traverse City, MI 49684.**

The appeal must be in writing, specifically state the word "appeal," and identify the reason or reasons you are seeking a reversal of the denial.

Within 10 business days of receiving the appeal the DDA Board Chair will respond in writing by:

- Reversing the disclosure denial.
- Upholding the disclosure denial; or
- Reverse the disclosure denial in part and uphold the disclosure denial in part.

Whether or not you submitted an appeal of denial to the DDA Board Chair, you may file a civil action in Circuit Court.

Appeal of a FOIA Processing Fee

If you believe that the fee charged by the DDA to process your FOIA request exceeds the amount permitted by state law, you may appeal the FOIA Coordinator's decision by filing a written appeal for a fee reduction to the office of the DDA Board Chair or Circuit Court.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the DDA Board Chair will respond in writing by:

- Waiving the fee;
- Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending the period during which the DDA will respond to the written appeal for not more than 10 business days.

After receiving notice of the DDA Board Chair's determination of the processing fee appeal, you may commence a civil action in Circuit Court for a fee reduction.