

Muskegon County

Public Summary of FOIA Policy and Procedure Guide

**It is the public policy of this state 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.**

The people shall be informed so that they may fully participate in the democratic process.

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is the Written Public Summary of the County's FOIA Procedures and Guidelines relevant to the general public.

This is only a summary of the County's FOIA Procedures and Guidelines. For more details and information, copies of the County's FOIA Procedures and Guidelines are available at no charge at any County office and on the County's website:
www.co.muskegon.mi.us/boardofcommissioners/policies.htm.

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

- A request must sufficiently describe a public record so as to enable the County to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the County in providing a prompt response.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the County may be submitted on the County's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.
 - Any verbal request will be documented by the County on the County's FOIA Request Form.
 - No specific form to submit a written request is required. However, a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the County's website at www.co.muskegon.mi.us/boardofcommissioners/policies.htm, and at any County facility.
- Written requests may be delivered to the Muskegon County Hall of Justice in person or by mail to FOIA Officer, County of Muskegon, 990 Terrace St., 4th Floor, Muskegon, MI 49442. Requests may be faxed to: (231) 724-6673. 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: chalkoli@co.muskegon.mi.us. 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 County 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 County 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 County needs an additional 10 business days to respond, or
 - Issue a written notice indicating that the public record requested is available at no charge on the County's website
- If the request is granted, or granted in part, the County 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 County will require a deposit before processing the request.

3. What are the County's deposit requirements?

- If the County has made a good faith calculation that the total fee for processing the request will exceed \$50.00, the County will require that you provide a deposit in the amount of 50% of the total estimated fee. When the County 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 County receives a request from a person who has not paid the County for copies of public records made in fulfillment of a previously granted written request, the County 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 **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 remain in the County's possession;
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by the County to provide the records;
 - Ninety (90) days have passed since the County 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 County; and
 - The County has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.

- The County 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 County;
 - The County 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 County.

4. How does the County calculate FOIA processing fees?

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

- Labor costs 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, when failure to charge a fee will result in unreasonably high costs to the County.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the County.
- 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 County's website if you ask for the County to make copies.
- The cost of computer discs, computer tapes 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 County's website if you ask for the County to make copies.
- The cost to mail or send a public record to a requestor.

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 County employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. County may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.

- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at the hourly rate of \$48.90 (6 times the state minimum hourly wage)

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 County. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the County's usual FOIA requests, because of the nature of the request in the particular instance. The County must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

The County 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 computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the County has the technological capability necessary to provide the public record in the requested non-paper physical media format.

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 County may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless you request it.

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 Officer a waiver or reduced fee is in the public interest because it can be considered as primarily benefitting the general public. The County Board of Commissioners 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 County will discount the first \$20.00 of fees for a request if you submit an affidavit (a sworn statement) stating that you are:

- Indigent and receiving specific public assistance; or
- If not receiving public assistance, stating facts demonstrating 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 County twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

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 an excessive 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 to the County Board of Commissioners by filing a written appeal of the denial with the office of the County Supervisor (or “clerk” or “FOIA Coordinator,” etc.).

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. You may use the County FOIA Appeal Form (To Appeal a Denial of Records), which is available on the County’s website: [www.
http://www.co.muskegon.mi.us/boardofcommissioners/policies.htm](http://www.co.muskegon.mi.us/boardofcommissioners/policies.htm).

The County Board is not considered to have received a written appeal until the first regularly scheduled County Board meeting following submission of the written appeal. Within 10 business days of receiving the appeal the County Board 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 a denial to the County Board, you may file a civil action in Muskegon County Circuit Court within 180 days after the County's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the County acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.

Appeal of an Excess FOIA Processing Fee

If you believe that the fee charged by the County to process your FOIA request exceeds the amount permitted by state law, you must first appeal to the County Board of Commissioners by filing a written appeal for a fee reduction to the office of the County Administrator..

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. You may use the County FOIA Appeal Form (To Appeal an Excess Fee), which is available at the County Hall and on the County's website:

[www.http://www.co.muskegon.mi.us/boardofcommissioners/policies.htm](http://www.co.muskegon.mi.us/boardofcommissioners/policies.htm).

The County Board is not considered to have received a written appeal until the first regularly scheduled County Board meeting following submission of the written appeal. Within 10 business days after receiving the appeal, the County Board 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 for not more than 10 business days the period during which the County Board will respond to the written appeal.

Within 45 days after receiving notice of the County Board of Commissioners' determination of the processing fee appeal, you may commence a civil action in Muskegon County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the County acted arbitrarily and capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.

County: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

County of Muskegon - Administration
990 Terrace Street, 4th Floor
Muskegon, MI 49442
Phone: (231) 724-6520

Request Form
Note: Requestors are not required to use this form. The County may complete one for recordkeeping if not used.

FOIA Request for Public Records
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ Date Received: _____ Check if received via: Email Fax Other Electronic Method

Date delivered to junk/spam folder: _____

(Please Print or Type)

Date discovered in junk/spam folder: _____

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis

Delivery Method: Will pick up Will make own copies onsite Mail to address above Email to address above
 Deliver on digital media provided by the County: _____

Note: The County is not required to provide records in a digital format or on digital media if the County does not already have the technological capability to do so.

Describe the public record(s) as specifically as possible. You may use this form or attach additional sheets:

Consent to Non-Statutory Extension of County's Response Time

I have requested a copy of records or a subscription to records or the opportunity to inspect records, pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq. I understand that the County must respond to this request within five (5) business days after receiving it, and that response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the County's response time for this request until: _____ (month, day, year).

Requestor's Signature	Date
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(Complete both sides)

Records Located on Website

If the County directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any labor charges to redact (*separate exempt information from non-exempt information*).

If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the County must notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed cost itemization form, the County must separate the requested public records that are available on its website from those that are not available on the website and must inform the requestor of the additional charge to receive copies of the public records that are available on its website.

If the County has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form, including digital media, the County must provide the public records in the specified format (if the County has the technological capability) but may use a fringe benefit multiplier greater than the 50%, not to exceed the actual costs of providing the information in the specified format.

Request for Copies/Duplication of Records on County Website

I hereby stipulate that, even if some or all of the records are located on a County website, I am requesting that the County make copies of those records on the website and deliver them to me in the format I have requested above. I understand that some FOIA fees may apply.

Requestor's Signature	Date
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Overtime Labor Costs

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.

Consent to Overtime Labor Costs

I hereby agree and stipulate to the County using overtime wages in calculating the following labor costs as itemized in the following categories:

- 1. Labor to copy/duplicate 2. Labor to locate 3a. Labor to redact 3b. Contract labor to redact
- 6b. Labor to copy/duplicate records already on County's website

Requestor's Signature	Date
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Request for Discount: Indigence

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 specific public assistance, **OR**
- 2) If not receiving public assistance, stating facts showing 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:

- (i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year,
- (ii) 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.

Office Use: Affidavit Received Eligible for Discount Ineligible for Discount

I am submitting an affidavit and requesting that I receive the discount for indigence for this FOIA request:	Date:
Requestor's Signature:	

Request for Discount: Nonprofit Organization

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 request meets **ALL** of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
- (ii) 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.
- (iii) Is accompanied by documentation of its designation by the state, if requested by the County.

Office Use: Documentation of State Designation Received Eligible for Discount Ineligible for Discount

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:	Date:
Requestor's Signature:	

County: Keep original and provide copy, along with Public Summary, to requestor at no charge.

County of Muskegon - Administration
990 Terrace Street, 4th Floor
Muskegon, MI 49318
Phone: (231) 724-6520

Extension Form

Notice to Extend Response Time for FOIA Request
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ Date Received: _____ Check if received via: Email Fax Other Electronic Method
Date of This Notice: _____ Date delivered to junk/spam folder: _____
(Please Print or Type) Date discovered in junk/spam folder: _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis
Delivery Method: Will pick up Will make own copies onsite Mail to address above Email to address above
 Deliver on digital media provided by the County: _____

Record(s) You Requested: (Listed here or see attached copy of original request) _____

We are extending the date to respond to your FOIA request for no more than 10 business days, until _____ (month, day, year).
Only one extension may be taken per FOIA request. If you have any questions regarding this extension, contact _____ at _____

Estimated Time Frame to Provide Records: _____ (days or date)
The time frame estimate is nonbinding upon the County, but the County is providing the estimate in good faith. Providing an estimated time frame does not relieve a public body from any of the other requirements of this act.

Reason for Extension:

1. The County needs to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to your request. Specifically, the County must:

2. The County needs to collect the requested public records from numerous field offices, facilities, or other establishments that are located apart from the County office. Specifically, the County must coordinate documents from the following locations:

3. Other (describe): _____

Signature of FOIA Coordinator:	Date:
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County: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

County of Muskegon - Administration
990 Terrace Street, 4th Floor
Muskegon, MI 49442
Phone: (231) 724-6520

Denial Form

Notice of Denial of FOIA Request

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ Date Received: _____ Check if received via: Email Fax Other Electronic Method
Date of This Notice: _____ Date delivered to junk/spam folder: _____
(Please Print or Type) Date discovered in junk/spam folder: _____

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis

Delivery Method: Will pick up Will make own copies onsite Mail to address above Email to address above
 Deliver on digital media provided by the County: _____

Record(s) You Requested: (Listed here or see attached copy of original request) _____

All OR Part of your request for records has been denied. Please refer to this form for an explanation. If you have any questions regarding this denial, contact _____ at _____

Reason for Denial:

1. Exempt from Disclosure: This item is exempt from disclosure under FOIA Section 13, Subsection _____ (insert number), because: _____

2. Record Does Not Exist: This item does not exist under the name provided in your request or by another name reasonably known to the County. A certificate that the public record does not exist under the name given is attached. If you believe this record does exist, provide a description that will enable us to locate the record: _____

3. Redaction: A portion of the requested record had to be separated or deleted (redacted) as it is exempt under FOIA Section 13, Subsection _____ (insert number), because: _____

A brief description of the information that had to be separated or deleted: _____

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the County Board of Commissioners or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the County has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: _____

Date: _____

FREEDOM OF INFORMATION ACT (EXCERPT)

Act 442 of 1976

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015

County: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

County of Muskegon - Administration
990 Terrace Street, 4th Floor
Muskegon, MI 49318
Phone: (231) 724-6520

Denial Appeal Form

FOIA Appeal Form—To Appeal a Denial of Records

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, *et seq.*

Request No.: _____ Date Received: _____ Check if received via: Email Fax Other Electronic Method
Date of This Notice: _____ Date delivered to junk/spam folder: _____
(Please Print or Type) Date discovered in junk/spam folder: _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis
Delivery Method: Will pick up Will make own copies onsite Mail to address above Email to address above
 Deliver on digital media provided by the County: _____

Record(s) You Requested: (Listed here or see attached copy of original request) _____

Reason(s) for Appeal:

The appeal must identify the reason(s) for the denial. You may use this form or attach additional sheets:

Requestor's Signature: _____ Date: _____

County Response:

The County must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

County Extension: We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until _____
(month, day, year). Only one extension may be taken per FOIA appeal.

Unusual circumstances warranting extension: _____

If you have any questions regarding this extension, contact: _____

County Determination:

Denial Reversed Denial Upheld Denial Reversed in Part and Upheld in Part

The following previously denied records will be released: _____

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the County Board of Commissioners or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the County has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: _____

Date: _____

FREEDOM OF INFORMATION ACT (EXCERPT)

Act 442 of 1976

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015.

County: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

County of Muskegon - Administration
990 Terrace Street, 4th Floor
Muskegon, MI 49318
Phone: (231) 724-6520

Fee Appeal Form

FOIA Appeal Form—To Appeal an Excess Fee

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, *et seq.*

Request No.: _____ Date Received: _____ Check if received via: Email Fax Other Electronic Method
Date of This Notice: _____ Date delivered to junk/spam folder: _____
(Please Print or Type) Date discovered in junk/spam folder: _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis
Delivery Method: Will pick up Will make own copies onsite Mail to address above Email to address above
 Deliver on digital media provided by the County: _____

Record(s) You Requested: (Listed here or see attached copy of original request) _____

Reason(s) for Appeal:

The appeal must specifically identify how the required fee(s) exceed the amount permitted. You may use this form or attach additional sheets:

Requestor's Signature: _____ Date: _____

County Response:

The County must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

County Extension: We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until _____
(month, day, year). Only one extension may be taken per FOIA appeal.

Unusual circumstances warranting extension: _____

If you have any questions regarding this extension, contact: _____

County Determination: Fee Waived Fee Reduced Fee Upheld

Written basis for County determination: _____

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10a of the Michigan Freedom of Information Act, MCL 15.240a, to appeal a FOIA fee that you believe exceeds the amount permitted under the County's written Procedures and Guidelines to the County Board of Commissioners or to commence an action in the Circuit Court for a fee reduction within 45 days after receiving the notice of the required fee or a determination of an appeal to the County Board. If a civil action is commenced in court, the County is not obligated to compete processing the request until the court resolves the fee dispute. If the court determines that the County required a fee that exceeded the permitted amount, the court shall reduce the fee to a permissible amount. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: _____ Date: _____

FREEDOM OF INFORMATION ACT (EXCERPT)
Act 442 of 1976

15.240a.added Fee in excess of amount permitted under procedures and guidelines or MCL 15.234.
Sec. 10a.

(1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

History: Add. 2014, Act 563, Eff. July 1, 2015