

"Menominee – Where the best of Michigan begins"

MENOMINEE COUNTY BOARD OF COMMISSIONERS

Menominee County Courthouse
839 10th Avenue
Menominee, Michigan 49858

Brian R. Bousley - County Administrator
Sherry DuPont - Administrative Assistant
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RESOLUTION 2015-11

ESTABLISHING FREEDOM OF INFORMATION ACT (FOIA) PROCEDURES AND GUIDELINES FOR MENOMINEE COUNTY

WHEREAS, the Michigan legislature adopted 2014 Public Act 563 enacting numerous amendments to the Michigan Freedom of Information Act (FOIA), being MCL 15.231 *et seq*, that require revision of the current County FOIA Policy; and

WHEREAS, from time to time Menominee County Departments will receive Freedom of Information Act (FOIA) requests; and

WHEREAS, it is necessary to adopt, and to post online, "FOIA Procedures and Guidelines" and a "Public Summary of FOIA Procedures and Guidelines" to ensure that the FOIA requests are addressed in an efficient and consistent manner, and to comply with these FOIA statutory amendments; and

WHEREAS, it is necessary to adopt FOIA Operational Procedures to implement these County FOIA Procedures and Guidelines.

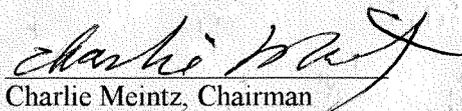
THEREFORE BE IT RESOLVED, the Menominee County Board of Commissioners hereby adopts, effective from and after July 1, 2015, the attached:

1. "Menominee County FOIA Procedures and Guidelines," including the FOIA Forms attached to these Procedures and Guidelines; and
2. "Menominee County FOIA Public Summary of Procedures and Guideline

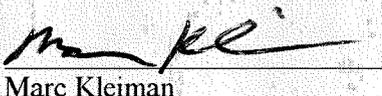
BE IT FURTHER RESOLVED that copies of the "Menominee County FOIA Procedures and Guidelines," including the attached FOIA forms, and the "Menominee County FOIA Public Summary of Procedures and Guidelines" shall be posted on the County's website.

BE IT FURTHER RESOLVED that the County Administrator is the County FOIA Coordinator for Menominee County per the designation by the Menominee County Board of Commissioners.

BE IT FURTHER RESOLVED that the attached Menominee County FOIA Procedures and Guidelines, including the attached FOIA Forms, the Menominee County FOIA Public Summary of Procedures and Guidelines will be effective July 1, 2015, and will supersede any previous resolutions setting FOIA policies or establishing formulas for the cost of FOIA requests.


Charlie Meintz, Chairman

6-23-15
Date


Marc Kleiman

6/23/15
Date

Bernie Lang Charlie Meintz - Chairperson Larry Schei - Vice Chairperson James Furlong
Raymond Williams John Nelson William Cech Gerald Piche Jan Hafeman

FOIA Procedures and Guidelines

Statement of Principles

It is the policy of Menominee County that all persons, except those incarcerated, consistent with the Michigan Freedom of Information Act (FOIA), 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 employees. The people shall be informed so that they fully participate in the democratic process.

The County's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

The County acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The County acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

Menominee County will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The County's policy is to disclose public records consistent with and in compliance with State law.

The County Board of Commissioners has established the following written procedures and guidelines to implement the FOIA and will create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary will be written in a manner so as to be easily understood by the general public.

General Policies

The County Board of Commissioners, acting pursuant to the authority at MCL 15.236, designates the County Administrator as the FOIA Coordinator. He is authorized to designate other County staff to act on his behalf to accept and process written requests for the County's public records and approve denials.

If a request for a public record is received by fax or email, the request is deemed to have been received on the following business day. If a request is sent by email and delivered to a County spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

The FOIA Coordinator shall review County spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with County Information Technology representative to develop administrative rules for handling spam and junk-mail so as to protect County systems from computer attacks which may be imbedded in an electronic FOIA request.

The FOIA Coordinator may, in his discretion, implement administrative rules, consistent with State law and these FOIA Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The County is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other County staff is obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves. The FOIA Coordinator shall keep a copy of all written requests for public records received by the County on file for a period of at least one year.

The County will make this FOIA Procedures and Guidelines document and the Written Public Summary of FOIA Procedures and Guidelines publicly available without charge. If it does not, the County cannot require deposits or charge fees otherwise permitted under the FOIA until it is in compliance.

A copy of this FOIA Procedures and Guidelines document and the County's Written Public Summary of FOIA Procedures and Guidelines must be publicly available by providing free copies both in the County's response to a written request and upon request by visitors at County offices.

This FOIA Procedures and Guidelines document and the County's Written Public Summary of FOIA Procedures and Guidelines will be maintained on the County's website at www.menomineeconomy.com, so a link to those documents will be provided in lieu of providing paper copies of those documents.

Requesting a Public Record

No specific form to submit a request for a public record is required. However the FOIA Coordinator may make available a FOIA Request Form for use by the public.

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.).

If a person makes a verbal, non-written request for information believed to be available on the County's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

A request must sufficiently describe a public record so as to enable County personnel to identify and find the requested public record.

Written requests for public records may be submitted in person or by mail to any County office. Requests may also be submitted electronically by fax and email. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, emailed or other otherwise provided to him or her in digital form in lieu of paper copies. The County will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued or disseminated by Menominee County on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

Processing a Request

Unless otherwise agreed to in writing by the person making the request, the County will issue a response within 5 business days of receipt of a FOIA request. If a request is received by fax, email or other electronic transmission, the request is deemed to have been received on the following business day.

The County will respond to a 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 for a total of no more than 15 business days. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the County's website.

When a request is granted:

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available.

The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request.

A copy of these FOIA Procedures and Guidelines and the Written Public Summary of FOIA Procedures and Guidelines will be provided to the requestor free of charge with the response to a written request for public records, provided however, that because these FOIA Procedures and Guidelines, and the Written Public Summary of FOIA Procedures and Guidelines are maintained on the County's website at: www.menomineecounty.com, a link to the FOIA Procedures and Guidelines and the Written Public Summary of FOIA Procedures and Guidelines will be provided in lieu of providing paper copies of those documents.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.

If the cost of processing a FOIA request is expected to exceed \$50 based on a good-faith calculation, or if the requestor has not paid in full for a previously granted request, the County will require a good-faith deposit pursuant to "**Deposit Fees**" of this policy before processing the request.

In making the request for a good-faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the County to process the request and also provide a best efforts estimate of a time frame it will take the County to provide the records to the requestor. The best efforts estimate shall be nonbinding on the County, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

When a request is denied or denied in part:

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the County; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the County Board of Commissioners, or seek judicial review in the Menominee County Circuit Court;
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

Requests to inspect public records:

The County shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect County records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal County operations.

Requests for certified copies:

The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

Deposit Fees

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not paid the County in full for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person 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 time frame estimated by the County to provide the records;
- Ninety (90) days have passed since the FOIA Coordinator 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 FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator will not require an increased 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 the applicable prior written request; 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.

Fee Calculations

A fee may be charged for the labor cost of copying/duplication.

A fee will *not* be charged for the labor cost of 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 because of the nature of the request in the particular instance, and the County specifically identifies the nature of the unreasonably high costs.

Costs for the search, examination review, and deletion and separation of exempt from non-exempt information are "unreasonably high" when they are excessive and beyond the normal or usual amount for those services compared to the costs of the County's usual FOIA requests, not compared to the County's operating budget.

The following factors shall be used to determine an unreasonably high cost to the County:

- Volume of the public record requested
- Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
- Whether the public records are from more than one County department or whether various County offices are necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

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 will be calculated based on the following requirements:

- 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.
- The 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).

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disks, 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 only be assessed if the County has the technological capability necessary to provide the public record in the requested non-paper physical media format.

- The County will procure any non-paper media and will not accept media from the requestor in order to ensure integrity of the County's technology infrastructure.

The cost to provide paper copies of records will be based on the following requirements:

- 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 of paper will reflect the actual cost of reproduction.
- The County will provide records using double-sided printing, if it is cost-saving and available.

The cost to mail records to the requesting person will be based on the following requirements:

- The actual cost to mail public records using 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 specified by the requestor.

If the FOIA Coordinator does not respond to a written request in a timely manner, the County must:

- Reduce the labor costs by 5% for each day the County exceeds the time permitted under FOIA up to a 50% maximum reduction, if **any** of the following applies:
 - ✓ The County's late response was willful and intentional,
 - ✓ The written request conveyed a request for information within the first 250 words of the body of a letter facsimile, email or email attachment, or
 - ✓ The written request included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy" or a recognizable misspelling of such, or legal code reference to MCL 15. 231, et seq. or 1976 Public Act 442 on the front of an envelope or in the subject line of an email, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form.

Fee Waivers

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 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.

Discounted Fees

Indigence

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- Indigent and receiving specific public assistance, or

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

An individual is not eligible to receive the waiver if:

- The requestor has previously received discounted copies of public records from the County twice during the calendar year; or
- The requestor requests information in connection with other persons who are offering or providing payment to make the request.

An affidavit is sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

Nonprofit organization advocating for developmentally disabled or mentally ill individuals

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from:

- A nonprofit organization 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, or their successors, if the request meets all of the following requirements:
 - ✓ 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.

Appeal of a Denial of a Public Record

When the requesting person believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may appeal to the County Board of Commissioners, by filing an appeal of the denial with the office of the County Board of Commissioners.

The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial. The County FOIA Appeal Form (To Appeal a Denial of Records), may be used.

The County Board of Commissioners is not considered to have received a written appeal until the first regularly scheduled County Board of Commissioners meeting following submission of the written appeal.

Within 10 business days of receiving the appeal the County Board of Commissioners 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; or
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the County Board of Commissioners shall respond to the written appeal. The County Board of Commissioners shall not issue more than 1 notice of extension for a particular written appeal.

If the County Board of Commissioners fails to respond to a written appeal, or if the County Board of Commissioners 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 in Circuit Court.

Whether or not the requesting person submitted an appeal of a denial to the County Board, he or she may file a civil action in Menominee County Circuit Court within 180 days after the County's final determination to deny the request.

If a court that determines a public record is not exempt from disclosure, it shall order the County to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Failure to comply with an order of the court may be punished as contempt of court.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in such an action, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or County prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

If the court determines that the County 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 County 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.

Appeal of an Excessive FOIA Processing Fee

"Fee" means the total fee or any component of the total fee calculated under "**Deposit Fees**" of the FOIA, including any deposit.

If the requesting person believes that the fee charged by the County to process a FOIA request exceeds the amount permitted by state law or under this policy, he or she must first appeal to the County Board of Commissioners by submitting a written appeal for a fee reduction to the County Administration Office.

The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The County FOIA Appeal Form may be used.

The County Board of Commissioners is not considered to have received a written appeal until the first regularly scheduled County Board of Commissioners meeting following the submission of the written appeal.

Within 10 business days after receiving the appeal, the County Board of Commissioners will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or

Where the County Board of Commissioners reduces or upholds the fee, the determination must include a certification from the County Administrator that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines of the FOIA.

Within 45 days after receiving notice of the County Board's determination of an appeal, the requesting person may commence a civil action in Menominee County Circuit Court for a fee reduction.

If a civil action is commenced against the County for an excess fee, the County 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 in circuit court unless *one* of the following applies:

- The County does not provide for appeals of fees,
- The County Board of Commissioners failed to respond to a written appeal as required, or
- The County Board of Commissioners issued a determination to a written appeal.

If a court determines that the County required a fee that exceeds the amount permitted under its publicly available procedures and guidelines of the FOIA, the court shall reduce the fee to a permissible amount. Failure to comply with an order of the court may be punished as contempt of court.

If the requesting person prevails in court 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.

If the court determines that the County has arbitrarily and capriciously violated the FOIA by charging an excessive fee, the court shall order the County 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.

Conflict with Prior FOIA Policies and Procedures; Effective Date

To the extent that these FOIA Procedures and Guidelines conflict with previous FOIA policies promulgated by County Board of Commissioners or the County Administration these FOIA Procedures and Guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the County Board of Commissioners or the County Administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these FOIA Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the County Board of Commissioners and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the County Board of Commissioners of any change these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015.

Appendix ~ FOIA Forms

- Request for Public Records Form
- Notice to Extend Response Time Form
- Notice of Denial Form
- Detailed Cost Itemization Form
- Appeal of Denial of Records Form
- Appeal of Excess Fee Form

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 the 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.

Signature of requesting individual: _____

Date: _____

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:

- a. Labor to copy/duplicate
- b. Labor to locate
- c. Labor to redact
- d. Contract labor to redact
- e. Labor to copy/duplicate records already on County's website

Signature of requesting individual: _____

Date: _____

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 the requesting person is ineligible for the discount, the public body shall inform the requesting person 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:

Signature of requesting individual: _____

Date: _____

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:

Signature of requesting individual: _____

Date: _____

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

Date Received: _____ Circle if received via: Email Fax Other Electronic Method

Date of This Notice: _____ Date delivered to junk/spam folder: _____

Date discovered in junk/spam folder: _____

Name:		Phone:
Firm/Organization:		Fax:
Street:		Email:
City, State, Zip:		

Request for (circle one):

Copy Certified Copy Record inspection Subscription to record issued on regular basis

Delivery Method (circle one):

Pick up 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 County Administration Office at 906-863-7779.

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: _____

Notice of Denial of FOIA Request

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

Date Received: _____ Circle if received via: Email Fax Other Electronic Method

Date of This Notice: _____ Date delivered to junk/spam folder: _____

Date discovered in junk/spam folder: _____

Name:		Phone:
Firm/Organization:		Fax:
Street:		Email:
City, State, Zip:		

Request for (circle one):

Copy Certified Copy Record inspection Subscription to record issued on regular basis

Delivery Method (circle one):

Pick up 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 Menominee County Administration Office at 906-863-7779.

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.

Signature of FOIA Coordinator: _____

Date: _____

Menominee County FOIA Request Itemized Cost Worksheet

Date: _____

Date Requested: _____

<p>A. Cost for Searching for, Locating and Examining of Public Records in Conjunction with Receiving and Fulfilling a Granted Written Request.</p> <p>1. Determination of the Hourly wage:</p> <ul style="list-style-type: none"> ○ The hourly wage of the lowest paid public employee capable of searching for, locating and examining the public records in this particular instance regardless of who actually performs the labor. \$ _____ ○ This labor charge includes fringe benefit costs (up 50% of the applicable labor charge but not more than the actual costs of fringe benefits) using the hourly wage identified above and a percentage multiplier of _____% (hourly wage x percentage multiplier=\$ _____) ○ This hourly wage is an overtime rate that was agreed to by the requestor in the amount of \$ _____ per hour. <p>2. Determination of total time using increments of 15 minutes with partial time rounded down. (So, for 15 minutes, use .25 hours; 30 minutes, use .5 hours; for 45 minutes use .75 hours). _____ hours.</p> <p>The FOIA Coordinator has determined that failure to charge this fee would result in unreasonably high costs to the County because of the nature of the request in the particular instance because of the following reasons:</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>Hourly wage: \$ _____</p> <p>Total time: _____ hours</p> <p>A. Total Fee (hourly wage x total time): \$ _____</p>
<p>B. Cost for Separating Exempt Information from Non-Exempt, including Redaction of Documents.</p> <p>1. For Employee Labor Costs:</p> <p>a. Determination of the Hourly wage:</p> <ul style="list-style-type: none"> ○ The hourly wage of the lowest paid public employee capable of searching for, locating and examining the public records in this particular instance regardless of who actually performs the labor. \$ _____ ○ This labor charge includes fringe benefit costs (up 50% of the applicable labor charge but not more than the actual costs of fringe benefits) using the hourly wage identified above and a percentage multiplier of _____% (hourly wage x percentage multiplier=\$ _____) ○ This hourly wage is an overtime rate that was agreed to by the requestor in the amount of \$ _____ per hour. <p>b. Determination of total time using increments of 15 minutes with partial time rounded down. (So, for 15 minutes, use .25 hours; 30 minutes, use .5 hours; for 45 minutes use .75 hours). _____ hours.</p>	<p>1.a Hourly wage for employees: \$ _____</p> <p>1.b Total time for employees: _____ hours</p> <p>1.c Total Employee labor charge (hourly wage x hours): \$ _____</p>

<p>2. For Contracted Labor Costs:</p> <p>○ The FOIA Coordinator has determined that the County does not employ a person capable of deleting exempt information from non-exempt information in the particular instance and the work is being performed by the following person or firm:</p> <p>_____</p> <p>a. Determination of the Hourly wage:</p> <p>The hourly wage of the contracted labor (not to exceed 6 times the State of Michigan minimum hourly wage): \$_____</p> <ul style="list-style-type: none"> • This hourly wage is an overtime rate that was agreed to by the requestor in the amount of \$_____ per hour. <p>b. Determination of total time using increments of 15 minutes with partial time rounded down. (So, for 15 minutes, use .25 hours; 30 minutes, use .5 hours; for 45 minutes use .75 hours). _____ hours.</p> <p>The FOIA Coordinator has determined that failure to charge this fee would result in unreasonably high costs to the County because of the nature of the request in the particular instance because of the following reasons:</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p>2.a Contracted labor hourly wage: \$_____</p> <p>2.b Contracted labor hours: _____ hours</p> <p>2.c Total Fee for contracted labor (hourly wage x hours): \$_____</p>
<p>C. Cost for Duplication and Publication.</p> <p>1. Determination of the Hourly wage:</p> <ul style="list-style-type: none"> ○ The hourly wage of the lowest paid public employee capable of searching for, locating and examining the public records in this particular instance regardless of who actually performs the labor. \$_____ ○ This labor charge includes fringe benefit costs (up 50% of the applicable labor charge but not more than the actual costs of fringe benefits) using the hourly wage identified above and a percentage multiplier of _____% (hourly wage x percentage multiplier=\$_____) ○ This hourly wage is an overtime rate that was agreed to by the requestor in the amount of \$_____ per hour. <p>2. Determination of total time using increments of 1 minute with partial time rounded down. _____ hours.</p>	<p>Hourly wage: \$_____</p> <p>Total time: _____ hours</p> <p>C. Total Fee (hourly wage x hours) \$_____</p>
<p>Other Actual Costs</p>	
<p>D. Costs for Paper Copies.</p> <p>The actual total incremental cost of necessary duplication and publication using the most economical means available:</p> <p>1. Not to exceed \$.10 per sheet for 8 ½ by 11 or 8 ½ by 14 in paper: \$_____ per sheet x _____ number of sheets = \$_____.</p> <p>2. Other paper sizes: \$_____ per sheet x _____ number of sheets = \$_____.</p>	<p>D. Total Fee (add totals for all sizes of paper): \$_____</p>

<p>E. Costs for Nonpaper Physical Media.</p> <p>The actual and most reasonably economical cost of the computer disc, flash drives, computer tape or other similar media: \$_____ per item x _____ number of items .</p>	<p>E. Total Fee: \$_____</p>
<p>F. Cost of Mailing:</p> <p>1. The actual cost of mailing: \$_____</p> <p>2. Fee for the least expensive postal delivery confirmation: \$_____</p> <p>3. Costs for the envelope or box for mailing \$_____.</p> <p><input type="checkbox"/> The requestor has stipulated to expedited shipping and/or insurance and those costs are listed above as the actual costs of mailing.</p>	<p>F. Total Fee: (add all 3 costs): \$_____</p>
<p>Costs for Providing Documents Available on the Website</p>	
<p>G. The County has notified the requestor in its written response that all or a portion of the requested information is available on its website and the requestor.</p> <p>The following is a detailed itemization of the information that is available on the website:</p> <p>1. Labor Costs – Searching for, locating and examining:</p> <p>a. Determination of the Hourly wage:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The hourly wage of the lowest paid public employee capable of searching for, locating and examining the public records in this particular instance regardless of who actually performs the labor. \$_____ <input type="checkbox"/> This labor charge includes fringe benefit costs (up 50% of the applicable labor charge but not more than the actual costs of fringe benefits) using the hourly wage identified above and a percentage multiplier of _____% (hourly wage x percentage multiplier=\$_____) <input type="checkbox"/> This hourly wage is an overtime rate that was agreed to by the requestor in the amount of \$_____ per hour. <p>2. Determination of total time using increments of 15 minutes with partial time rounded down. (So, for 15 minutes, use .25 hours; 30 minutes, use .5 hours; for 45 minutes use .75 hours). _____ hours.</p>	<p>1. Total fee (hourly wage x hours): \$_____</p>
<p>2. Labor Costs: Copying or Duplication:</p> <p>a. Determination of the Hourly wage:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The hourly wage of the lowest paid public employee capable of searching for, locating and examining the public records in this particular instance regardless of who actually performs the labor. \$_____ <input type="checkbox"/> This labor charge includes fringe benefit costs (up 50% of the applicable labor charge but not more than the actual costs of fringe benefits) using the hourly wage identified above and a percentage multiplier of _____% (hourly wage x percentage multiplier=\$_____) 	

<p><input type="checkbox"/> This hourly wage is an overtime rate that was agreed to by the requestor in the amount of \$_____ per hour.</p> <p>2. Determination of total time using increments of 15 minutes with partial time rounded down. (So, for 15 minutes, use .25 hours; 30 minutes, use .5 hours; for 45 minutes use .75 hours). _____ hours.</p> <p>3. The actual total incremental cost of necessary duplication and publication using the most economical means available:</p> <p>a. Not to exceed \$.10 per sheet for 8 ½ by 11 or 8 ½ by 14 in paper: \$_____ per sheet x _____ number of sheets = \$_____.</p> <p>b. Other paper sizes: \$_____ per sheet x _____ number of sheets = \$_____.</p> <p>4. Cost for Nonpaper Physical Media. The actual and most reasonably economical cost of the computer disc, flash drives, computer tape or other similar media: \$_____ per item x _____ number of items .</p> <p>5. Cost of Mailing:</p> <p>1. The actual cost of mailing: \$_____</p> <p>2. Fee for the least expensive postal delivery confirmation: \$_____</p> <p>3. Costs for the envelope or box for mailing \$_____.</p> <p><input type="checkbox"/> The requestor has stipulated to expedited shipping and/or insurance and those costs are listed above as the actual costs of mailing.</p>	<p>2. Total fee (hourly wage x hours): \$_____</p> <p>3. Total cost for paper copies: \$_____</p> <p>4. Total cost for nonpaper physical media: \$_____</p> <p>5. Total cost of Mailing: \$_____</p> <p>G. Total Cost for Providing Documents: \$_____</p>
<p>1. Subtotal Charges: Add Items A – F Above:</p> <p>2. Subtotal with Website Document Charges from G above if applicable</p>	<p>Total Fee: \$_____</p> <p>Total Fee with website records included if applicable \$_____.</p>
<p>Waivers or Reductions</p>	
<p>Public Interest Reduction or Waiver. The FOIA Coordinator may reduce or waive the imposition of fees if the FOIA Coordinator determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.</p> <p><input type="checkbox"/> Fee waiver granted or granted in part for a reduction of \$_____</p>	<p>Subtract \$_____</p>
<p>Waiver of Fees of First \$20.00. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request by either of the following:</p> <p>1. Indigence: Certain individuals who submit an affidavit stating that the individual is indigent or receiving public assistance as stated more fully in the FOIA</p>	<p>Subtract Waiver of Fee: \$_____</p>

<p>and the County 's Procedures and Guidelines.</p> <ul style="list-style-type: none"> ○ FOIA Coordinator Approves the Waiver. <p>2. Certain Non-Profit Organizations. A non-profit 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 as stated more fully in FOIA and the County 's Procedures and Guidelines.</p> <ul style="list-style-type: none"> ○ FOIA Coordinator Approves the Waiver. 	
<p>Reduction for Late Response: If the County does not respond to a written request in a timely manner, the County shall reduce the charges for labor costs by 5% for each day the County exceeds the time permitted, with a maximum 50% reduction. However, this reduction only applies (1) if the late response was willful and intentional or (2) if the request contained the language required by the FOIA for such reduction (See Procedures and Guidelines). _____ number of days x 5% of labor costs = \$ _____</p>	<p>Subtract \$ _____ of labor changes (up to 50% of labor costs).</p>
<p>Final Total After Any Applicable Reductions or Waivers:</p>	<p>\$ _____</p>
<p>Deposit:</p> <ul style="list-style-type: none"> ○ The County requires a deposit of \$ _____ (1/2 of the estimated fee) and this total estimated fee exceeds \$50.00. ○ The County requires a deposit of \$ _____ (100% of the estimated fee) because this request meets the statutory requirements for failing to pay for prior requests under Section 4(11) of the FOIA. 	<p>Deposit Amount: \$ _____</p> <p>Deposit Paid on _____</p>
<p>Total Fee \$ _____</p> <p>- Deposit Amount \$ _____</p> <p>= Remaining Fee Due of \$ _____</p> <p>Fee Paid on:</p>	<p>Total Fee Due:</p> <p>\$ _____</p>

FOIA Appeal Form—To Appeal a Denial of Records
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Date Received: _____ Circle if received via: Email Fax Other Electronic Method

Date of This Notice: _____ Date delivered to junk/spam folder: _____

Date discovered in junk/spam folder: _____

Name:		Phone:
Firm/Organization:		Fax:
Street:		Email:
City, State, Zip:		

Request for (circle one):

Copy Certified Copy Record inspection Subscription to record issued on regular basis

Delivery Method (circle one):

Pick up 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:

Signature of person making request: _____

Date: _____ (month, day, year)

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: Menominee County Administration Office, 906-863-7779

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 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.

Signature of FOIA Coordinator: _____

Date: _____

FOIA Appeal Form—To Appeal an Excess Fee
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Date Received: _____ Circle if received via: Email Fax Other Electronic Method

Date of This Notice: _____ Date delivered to junk/spam folder: _____

Date discovered in junk/spam folder: _____

Name:		Phone:
Firm/Organization:		Fax:
Street:		Email:
City, State, Zip:		

Request for (circle one):

Copy Certified Copy Record inspection Subscription to record issued on regular basis

Delivery Method (circle one):

Pick up 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:

Signature of Requesting Person:

_____ **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 of Commissioners. 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.

Public Summary of FOIA Procedures and Guidelines

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.menomineecounty.com

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.).
 - ✓ 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.menomineecounty.com, and at County Administration Office, 839 10th Ave, Menominee, MI 49858
- Written requests may be delivered to the County Administrator's Office in person or by mail:
Attn: County Administrator , FOIA Coordinator, 839 10th Ave, Menominee, MI 49858
- Requests may be faxed to: (906) 863-8839. 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: foia@menomineecounty.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 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 Coordinator 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 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.

An affidavit is sworn statement. For your convenience, the County has provided an Affidavit of Indigence for the waiver of FOIA fees on the back of the County FOIA Request Form, which is available on the County's website: www.menomineecounty.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 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 Board of Commissioners.

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.menomineecounty.com.

The County Board of Commissioners is not considered to have received a written appeal until the first regularly scheduled County Commission meeting following submission of the written appeal. Within 10 business days of receiving the appeal the County Board of Commissioners 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 of Commissioners, you may file a civil action in the 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 Board of Commissioners.

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 Building and on the County's website: www.menomineecounty.com

The County Board of Commissioners is not considered to have received a written appeal until the first regularly scheduled County Commission meeting following submission of the written appeal. Within 10 business days after receiving the appeal, the County Board of Commissioners 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 of Commissioners will respond to the written appeal.

Within 45 days after receiving notice of the County Board of Commissioner's determination of the processing fee appeal, you may commence a civil action in the 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, court may also award you punitive damages in the amount of \$500.