

**MINUTES  
ISABELLA COUNTY  
BOARD OF COMMISSIONERS  
JUNE 16, 2015**

The Isabella County Board of Commissioners was called to order at 7:00 p.m., by Chairperson George Green in the Commission Chambers on the above date.

**The Pledge of Allegiance to the United States of America** was led by Chairperson George Green.

**Roll was called with the following Commissioners present:** George Green, John Haupt, Jerry Jalszynski, Jim Horton, James Moreno, David Ling and Michael Fisher

**Commissioners Absent:** None

**Also present were:** Isabella County Administrator/Controller Margaret McAvoy, Prosecuting Attorney Risa Hunt-Scully, County Clerk Minde` B. Lux, Deputy Clerk Brenda M. Young.

**APPROVAL OF AGENDA:**

It was moved by Commissioner Fisher and seconded by Commissioner Moreno to approve the agenda as amended.

**GENERAL PUBLIC COMMENTS:** None

**PRESENTATIONS AND SPECIAL REPORTS:** None

**APPOINTMENTS TO BOARDS AND COMMISSIONS:**

**1. Economic Development Corporation Board of Directors:** Chairman's request for nominations for the Economic Development Corporation Board of Directors for a six year term ending 7/1/2021 or until a successor is approved. Four positions are open. Two applications were received from Thomas W. Hall Jr. and James Haton. It was moved by Commissioner Haupt and seconded by Commissioner Horton to appoint Thomas W. Hall Jr. and James Haton. Motion Carried.

**2. MSUE Advisory Council:** Chairperson Green is appointing Commissioner Jalszynski to the Michigan State University Extension Advisory Council. It was moved by Commissioner Ling and seconded by Commissioner Haupt to concur with the Board Chair's appointment of Commissioner Jalszynski. Motion Carried.

**CONSENT AGENDA:**

Commissioner Ling stated the Finance Committee meeting minutes should be corrected to reflect that he was not in attendance. It was moved by Commissioner Moreno and seconded by Commissioner Fisher to approve and place on file the June 2, 2015 Regular Board Minutes, the June 9, 2015 Finance and Administration Meeting Minutes as amended, the June 9, 2015 Criminal Justice and County Affairs Meeting Minutes, and the June 1, 2015 Routine Personnel Items. Motion Carried.

## COMMITTEE REPORTS

### Finance and Administration Committee:

#### 1. June 3, 2015 Claims List:

It was moved by Commissioner Ling and seconded by Commissioner Horton to approve and place on file the June 3, 2015 Claims List in the amount of \$105,941.59. The motion carried with 7 yeas and 0 nays. Yeas: Commissioners Green, Haupt, Jaloszynski, Horton, Moreno, Ling and Fisher. Nays: None.

#### 2. May 2015 Direct Pay List:

It was moved by Commissioner Horton and seconded by Commissioner Ling to approve and place on file May 2015 Direct Pay List in the amount of \$1,691,175.35. The motion carried with 7 yeas and 0 nays. Yeas: Commissioners Green, Haupt, Jaloszynski, Horton, Moreno, Ling and Fisher. Nays: None.

#### 3. 2015 County Operating Rate:

It was moved by Commissioner Ling and seconded by Commissioner Horton to approve the completion of the State Tax Commission Form L-4029-2015 Tax Rate Request Form setting the 2015 County Operating Rate at 6.61 mills, and authorize the Board Chair to sign the same. The motion carried with 7 yeas and 0 nays. Yeas: Commissioners Green, Haupt, Jaloszynski, Horton, Moreno, Ling and Fisher. Nays: None

#### 4. Resolution No. 15-06-02:

### ISABELLA COUNTY BOARD OF COMMISSIONERS RESOLUTION NO. 15-06-02

### RESOLUTION ESTABLISHING A FREEDOM OF INFORMATION ACT (FOIA) POLICIES AND GUIDELINES, PUBLIC SUMMARY OF PROCEDURES AND GUIDELINES, AND FOIA OPERATIONAL PROCEDURES FOR ISABELLA 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 Isabella 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 "FOIA Policy Summary" 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 Internal FOIA Operational Procedures to implement these County FOIA Policies and Guidelines.

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

1. "Isabella County FOIA Procedures and Guidelines," including the FOIA Forms attached to these Policies and Guidelines; and
2. "Isabella County Public Summary of FOIA Procedures and Guidelines"; and
3. "Isabella County Internal FOIA Operational Procedures."

**BE IT FURTHER RESOLVED**, that copies of the “Isabella County FOIA Procedures and Guidelines,” including the attached FOIA forms, and the “Isabella County Public Summary of FOIA Procedures and Guidelines” shall be posted on the County’s website.

**BE IT FURTHER RESOLVED**, that the County Administrator/Controller is the County FOIA Coordinator for Isabella County per the designation by the Board Chairperson.

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

It was moved by Commissioner Horton and seconded by Commissioner Ling to adopt Resolution No. 15-06-02 establishing a Freedom of Information Act (FOIA) Policies and Guidelines, Public Summary of Procedures and Guidelines, and FOIA Operational Procedures for Isabella County, and authorize the Board Chair to sign the same. The motion carried with 7 yeas and 0 nays. Yeas: Commissioners Green, Haupt, Jaloszynski, Horton, Moreno, Ling and Fisher. Nays: None

**5. County Administrator/Controller Contract:**

It was moved by Commissioner Ling and seconded by Commissioner Horton to extend the contract with the County Administrator/Controller for a three year period from October 1, 2015 to September 30, 2018 and authorize the Board chair to sign the same. The motion carried with 7 yeas and 0 nays. Yeas: Commissioners Green, Haupt, Jaloszynski, Horton, Moreno, Ling and Fisher. Nays: None

**Criminal Justice and County Affairs Committee:**

**1. FY 2016 Community Corrections Comprehensive Plan and Application:**

It was moved by Commissioner Jaloszynski and seconded by Commissioner Haupt to approve the FY 2016 Community Corrections Comprehensive Plan and Application for funding from the Department of Corrections, in the amount of \$132,560 for plans and Services and \$4,275 for Drink Driving Jail Reduction Program, and authorize the Board Chair to sign the same. The motion carried with 7 yeas and 0 nays. Yeas: Commissioners Green, Haupt, Jaloszynski, Horton, Moreno, Ling and Fisher. Nays: None

**Human Resources and Public Works: No Business**

**Intergovernmental Affairs Committee: No Business**

**Administrator/Controller:**

**1. Finance Committee:**

It was moved by Commissioner Fisher and seconded by Commissioner Moreno to authorize the Finance Committee to approve payments, Claims and Direct Pays, which the County Administrator/Controller deems necessary, and present the listing of payments at the following Board of Commissioners meeting for ratification. The motion carried with 7 yeas and 0 nays. Yeas: Commissioners Green, Haupt, Jaloszynski, Horton, Moreno, Ling and Fisher. Nays: None

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**2. Deputy Medical Examiner:**

It was moved by Commissioner Jaloszynski and seconded by Commissioner Moreno to appoint Dr. Stephanie Dean as a Deputy Medical Examiner for Isabella County effective immediately. Motion Carried. The motion carried with 7 yeas and 0 nays. Yeas: Commissioners Green, Haupt, Jaloszynski, Horton, Moreno, Ling and Fisher. Nays: None

**Unfinished Business: No Business**

**New Business: None**

**General Public Comments: None**

**Announcements:**

Commissioner Ling requested that at the next Board of Commissioner meeting the Board consider returning to a 3:30 start time for the Work session.

Chairperson Green suggested the Board consider cancelling the July 21, 2015 meeting of the Isabella County Board of Commissioners.

Chairperson Green announced that the Council of Governments will meet Wednesday June 17, 2015 at 7pm in the Wise Township Hall.

**Adjournment:** It was moved by Commissioner Fisher to adjourn to the call of the chair at 7:25pm. Motion Carried

# ISABELLA COUNTY FOIA PROCEDURES AND GUIDELINES

## **Preamble: Statement of Principles**

It is the policy of Isabella 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.

Isabella 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.

## **Section 1: General Policies**

The County Board of Commissioners, acting pursuant to the authority at MCL 15.236, designates Margaret McAvoy, County Administrator, as the FOIA Coordinator. She is authorized to designate other County staff to act on her 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 staff 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 her discretion, implement administrative rules, consistent with State law and these 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 are 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 *Procedures and Guidelines document (A)* and the *Written Public Summary (B)* 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 *Procedures and Guidelines document (A)* and the County's *Written Public Summary (B)* 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 *Procedures and Guidelines document (A)* and the County's *Written Public Summary (B)* will be maintained on the County's website at: [www.isabellacounty.org](http://www.isabellacounty.org) so a link to those documents will be provided in lieu of providing paper copies of those documents.

## **Section 2: 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 C, in any other form of writing (letter, fax, email, etc.), or by verbal request.

Verbal requests for records may be documented by the County on the *County's FOIA Request Form (C)*.

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 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 Isabella 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.

### Section 3: 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 C*.
- Issue a *written notice denying the request E*.
- 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 (D)* 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 *Procedures and Guidelines (A)* and the *Written Public Summary (B)* will be provided to the requestor free of charge with the response to a written request for public records, provided however, that because these *Procedures and Guidelines (A)*, and the *Written Public Summary (B)* are maintained on the County's website at: [www.isabellacounty.org](http://www.isabellacounty.org) a link to the *Procedures and Guidelines (A)* and the *Written Public Summary (B)* 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 Section 4 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 (E)* 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 Isabella County Circuit Court; and
- 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 (E)* 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 (E)* 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.

**Section 4: Fee Deposits**

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 (C)* 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.

## **Section 5: Calculation of Fees**

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 a requestor 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 (F)*.

## Section 6: 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.

## Section 7: 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.

## Section 8: Appeal of a Denial of a Public Record

When a requestor 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) (G)*, 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 (D)* 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 a requestor submitted an appeal of a denial to the County Board, he or she may file a civil action in Isabella 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.

### **Section 9: Appeal of an Excessive FOIA Processing Fee**

"Fee" means the total fee or any component of the total fee calculated under section 4 of the FOIA, including any deposit.

If a requestor 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 office of the County Board of Commissioners.

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 (To Appeal an Excess Fee) (H)* 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 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

- 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. The County Board of Commissioners shall not issue more than 1 notice of extension for a particular written appeal.

Where the County Board of Commissioners reduces or upholds the fee, the determination must include a certification from the County Board of Commissioners 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 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 Isabella 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 or Section 4 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.

#### **Section 10: Conflict with Prior FOIA Policies and Procedures; Effective Date**

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by County Board of Commissioners or the County Administration these 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 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 or the County Administration, 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 Procedures and Guidelines (A)* become effective July 1, 2015.

**Section 11: Appendix of Isabella County FOIA Forms**

- *County's Written Summary of FOIA Procedures and Guidelines (B)*
- *Request for Public Records Form (C)*
- *Notice to Extend Response Time Form (D)*
- *Notice of Denial Form (E)*
- *Detailed Cost Itemization Form (F)*
- *Appeal of Denial of Records Form (G)*
- *Appeal of Excess Fee Form (H)*



**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.

Requestor's Signature	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:

- 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
-----------------------	------

**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 of both sides, along with Public Summary, to Requestor at no charge.

**Isabella County**  
200 N. Main Street, Mt. Pleasant, MI 48858  
Phone: (989) 317-4053

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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Third block of faint, illegible text.

Fourth block of faint, illegible text.

Fifth block of faint, illegible text.

Sixth block of faint, illegible text.

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Eighth block of faint, illegible text.

Ninth block of faint, illegible text.

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

**Isabella County**  
200 N. Main Street, Mt. Pleasant, MI 48858  
Phone: (989) 317-4053

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 copies of both sides of each sheet, along with Public Summary, to Requestor at no charge.

**Isabella County**  
200 N. Main Street, Mt. Pleasant, MI 48854  
Phone: (989) 317-4053

Detailed Cost  
Itemization

## Freedom of Information Act Request Detailed Cost Itemization

Date: \_\_\_\_\_ Prepared for Request No.: \_\_\_\_\_ Date Request Received: \_\_\_\_\_

The following costs are being charged / estimated in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the County's FOIA Policies and Guidelines. If the County is seeking a 50% deposit prior to providing the public records sought, the estimate is itemized on this form, lines 1-5 below.

If all or a portion of the requested information is available on the County's website, the County is required to tell you it is available on the website and, where practicable, include a specific webpage address where the information is available. In this case

- None
- Some
- All

of the requested material can be found at the following webpage(s):

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If the webpage is all the information you need, it is provided without charge. If, however, you still wish to receive a copy of material from the webpage, please let us know. The FOIA charges will apply if the County is required to produce copies of material from the webpage.

Requestor has stipulated that some / all of the requested records that are already available on the County's website but requests they be provided in a paper or non-paper physical digital medium and acknowledges that providing the records in that format shall be subject to the County's normal charges outlined below.

<p><b>1. Labor Cost to Locate:</b>  This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. This fee is being charged because failure to do so will result in unreasonably high costs to the County because of the nature of the request in this particular instance, specifically: _____</p> <hr/> <p>The County will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Wage Charged: \$ _____ Charge per ¼ hour: \$ _____</p> <p style="text-align: center;"><u>OR</u></p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____  Multiply the hourly wage by the percentage multiplier: _____%  <i>(up to 50% of the hourly wage)</i> and add to the hourly wage for a total per hour rate. Charge per ¼ hour: \$ _____</p> <p><i>[For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 50% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage].</i></p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor <i>(overtime is not used to calculate the fringe benefit cost)</i></p>	<p>To figure the number of increments, take the number of minutes: _____, divide by 15 -minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>1. Labor Cost</p> <p>\$ _____</p>
<p><b>2. Labor Cost for Copying / Duplication</b></p> <p>This is the cost of labor directly associated with duplication of publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the Internet or other electronic means as stipulated by the requestor.</p> <p>This shall not be more than the hourly wage of the County's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments as set by the County Board of Commissioners <i>(for example: 15-minutes or more)</i>; all partial time increments must be rounded down. <i>If the number of minutes is less than one increment, there is no charge.</i></p> <p>Hourly Wage Charged: \$ _____ Charge per ¼ hour: \$ _____</p> <p style="text-align: center;"><u>OR</u></p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____  Multiply the hourly wage by the percentage multiplier: _____%  <i>(up to 50% of the hourly wage)</i> and add to the hourly wage for a total per hour rate. Charge per ¼ hour: \$ _____</p> <p><i>[For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 50% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage].</i></p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor <i>(overtime is not used to calculate the fringe benefit cost)</i></p>	<p>To figure the number of increments, take the number of minutes: _____, divide by 15 -minute increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>2. Labor Cost</p> <p>\$ _____</p>

**3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):**

*(Fill this out if using a County employee. If contracted, use No. 3b instead).*

The County will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the County that 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 this particular instance, specifically: \_\_\_\_\_

This is the cost of labor of a County employee, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the County's lowest-paid employee capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged 15-minute time increments; all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ \_\_\_\_\_

Charge per ¼ hour: \$ \_\_\_\_\_

OR

Hourly Wage with Fringe Benefit Cost: \$ \_\_\_\_\_

Multiply the hourly wage by the percentage multiplier: \_\_\_\_\_%  
(up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.

Charge per ¼ hour: \$ \_\_\_\_\_

*[For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 50% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage].*

Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)

To figure the number of increments, take the number of minutes: \_\_\_\_\_, divide by 15 -minute increments, and round down.  
Enter below:

Number of increments

3a. Labor Cost

x \_\_\_\_\_ =

\$ \_\_\_\_\_

<p><b>3b. Contracted Labor Cost for Separating Exempt from Non-Exempt (Redacting):</b>  <i>(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a instead.)</i></p> <p>The County will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.</p> <p>This fee is being charged because failure to do so will result in unreasonably high costs to the County that 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 this particular instance, specifically: _____          _____          _____</p> <p>As this County does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a contractor (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to 6 times the state minimum hourly wage rate of _____ (currently \$8.15).</p> <p>Name of contracted person or firm: _____</p> <p>These costs will be estimated and charged in 15-minute time increments (<i>must be 15-minutes or more</i>); all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Cost Charged: \$ _____ Charge per increment: \$ _____</p>	<p>To figure the number of increments, take the number of minutes: _____, divide by 15 -minute increments, and round down to: _____ increments. Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>3b. Labor Cost</p> <p>\$ _____</p>
<p><b>4. Copying / Duplication Cost:</b></p> <p>Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (<i>for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection</i>).</p> <p>No more than the <u>actual</u> cost of a sheet of paper, <u>up to maximum 10 cents per sheet</u> for:</p> <ul style="list-style-type: none"> <li>Letter (8 ½ x 11-inch, single and double-sided): _____ cents per sheet</li> <li>Legal (8 ½ x 14-inch, single and double-sided): _____ cents per sheet</li> </ul> <p>No more than the <u>actual</u> cost of a sheet of paper for <u>other</u> paper sizes:</p> <ul style="list-style-type: none"> <li>Other paper sizes (single and double-sided): _____ cents / dollars per sheet</li> </ul> <p><u>Actual and most reasonably economical cost of non-paper physical digital media:</u></p> <ul style="list-style-type: none"> <li><i>Circle applicable:</i> Disc / Tape / Drive / Other Digital Medium Cost per Item: _____</li> </ul> <p>The cost of paper copies must be calculated as a total cost per <u>sheet</u> of paper. The fee cannot exceed 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. <u>The County must utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.</u></p>	<p>Number of Sheets:</p> <p>x _____ =</p> <p>x _____ =</p> <p>x _____ =</p> <p>No. of Items:</p> <p>x _____ =</p>	<p>Costs:</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p> <p>4. Total Copy Cost</p> <p>\$ _____</p>

**5. Mailing Cost:**

The County will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The County *may* charge for the least expensive form of postal delivery confirmation.
- The County *cannot* charge more for expedited shipping or insurance unless specifically requested by the requestor.\*

Actual Cost of Envelope or Packaging: \$ \_\_\_\_\_

Actual Cost of Postage: \$ \_\_\_\_\_ per stamp

\$ \_\_\_\_\_ per pound

\$ \_\_\_\_\_ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ \_\_\_\_\_

\*Expedited Shipping or Insurance as Requested: \$ \_\_\_\_\_

\* Requestor has requested expedited shipping or insurance

Number of Envelopes or Packages:

x \_\_\_\_\_ = \$ \_\_\_\_\_  
 x \_\_\_\_\_ = \$ \_\_\_\_\_

Costs:

5. Total Mailing Cost  
 \$ \_\_\_\_\_

**Subtotal Fees Before Waivers, Discounts or Deposits:**

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 the County from any of the other requirements of this act.

- Cost estimate  
 Bill

- 1. Labor Cost to Locate: \$ \_\_\_\_\_
- 2. Labor Cost for Copying: \$ \_\_\_\_\_
- 3a. Labor Cost to Redact: \$ \_\_\_\_\_
- 3b. Contract Labor Cost to Redact: \$ \_\_\_\_\_
- 4. Copying/Duplication Cost: \$ \_\_\_\_\_
- 5. Mailing Cost: \$ \_\_\_\_\_

Subtotal Fees: \$ \_\_\_\_\_

**Waiver: Public Interest**

A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the County 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.

All fees are waived OR  All fees are reduced by: \_\_\_\_\_%

Subtotal Fees After Waiver: \$ \_\_\_\_\_

<p><b>Discount: Indigence</b>  A public record search <b>must</b> be made and a copy of a public record <b>must</b> be furnished <b>without charge for the first \$20.00 of the fee</b> for each request by an individual who is entitled to information under this act and who:</p> <p>1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, <b>OR</b></p> <p>2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.</p> <p>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 <b>ANY</b> of the following apply:</p> <p>(i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year, <b>OR</b></p> <p>(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.</p> <p style="text-align: right;"><input type="checkbox"/> Eligible for Indigence Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p><b>Discount: Nonprofit Organization</b>  A public record search <b>must</b> be made and a copy of a public record <b>must</b> be furnished <b>without charge for the first \$20.00 of the fee</b> for each request by 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 and the federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets <b>ALL</b> of the following requirements:</p> <p>(i) Is made directly on behalf of the organization or its clients.</p> <p>(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.</p> <p>(iii) Is accompanied by documentation of its designation by the state, if requested by the County.</p> <p style="text-align: right;"><input type="checkbox"/> Eligible for Nonprofit Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p><b>Deposit: Good Faith</b>  The County may require a good-faith deposit before <u>providing the public records to the Requestor</u> if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee. The deposit cannot exceed 1/2 of the total estimated fee.      Percent of Deposit: _____%</p>	<p>Date Paid:</p> <p>_____</p>	<p>Deposit Amount Required:</p> <p>\$ _____</p>

**Deposit: Increased Deposit Due to Previous FOIA Fees Not Paid In Full**

After the County has granted and fulfilled a written request from an individual under this Act, if the County has not been paid in full the total amount of fees for the copies of public records that the County made available to the individual as a result of that written request, the County may require an increased estimated fee deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual if ALL of the following apply:

- (a) The final fee for the prior written request was not more than 105% of the estimated fee.
- (b) The public records made available contained the information being sought in the prior written request and are still in the County's possession.
- (c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request.
- (d) Ninety (90) days have passed since the County notified the individual in writing that the public records were available for pickup or mailing.
- (e) The individual is unable to show proof of prior payment to the County.
- (f) The County calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.

The County can no longer require an increased estimated fee deposit from an individual if ANY of the following apply:

- (a) The individual is able to show proof of prior payment in full to the County, OR
- (b) The County is subsequently paid in full for the applicable prior written request, OR
- (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the County.

Percent Deposit Required:

\_\_\_\_\_ %

Deposit Required:

\$ \_\_\_\_\_

Date Paid:

\_\_\_\_\_

**14. Late Response Labor Costs Reduction**

If the County does not respond to a written request in a timely manner as required under MCL 15.235(2), the County must do the following:

- (a) Reduce the charges for labor costs otherwise permitted by 5% for each day the County exceeds the time permitted for a response to the request, with a maximum 50% reduction.

Number of Days Over Required Response Time:

\_\_\_\_\_

Multiply by 5%

= Total Percent Reduction:

\_\_\_\_\_

Total Labor Costs

\$ \_\_\_\_\_

Minus Reduction

\$ \_\_\_\_\_

= Reduced Total Labor Costs

\$ \_\_\_\_\_

**15. Balance Due (Deduct amount on Line 14 from amount on Line 13c)**

Date Paid \_\_\_\_\_

Total Balance Due:

\$ \_\_\_\_\_

The Public Summary of the County's FOIA Procedures and Guidelines is available free of charge from:

Website: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Request Will Be Processed, But Balance Must Be Paid Before Copies May Be Picked Up, Delivered or Mailed

(Form created by MTA, MAMA and CS&T, PC, May 2015)

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Fourth block of faint, illegible text, continuing the document's flow.

Fifth block of faint, illegible text, showing further content.

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Seventh block of faint, illegible text, possibly a concluding paragraph.

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Ninth block of faint, illegible text, the final visible content on the page.

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

**Isabella County**  
200 N. Main Street, Mt. Pleasant, MI 48858  
Phone: (989) 317-4053

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.

Isabella County  
200 N. Main Street, Mt. Pleasant, MI 48858  
Phone: (989) 317-4053

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 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. (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**

# ISABELLA COUNTY

## 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.isabellacounty.org](http://www.isabellacounty.org).

### 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.isabellacounty.org](http://www.isabellacounty.org) and at the County Board of Commissioners' Office ("County BOC Office"), 200 N. Main Street, Mt. Pleasant, MI 48858.
- Written requests may be delivered to the County BOC Office in person or by mail: Attn: \_\_\_\_\_ [name], FOIA Coordinator, \_\_\_\_\_ [address]
- Requests may be faxed to: \_\_\_\_\_ [fax number]. 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: \_\_\_\_\_ [email address]. 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 paper 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.isabellacounty.org](http://www.isabellacounty.org).

## 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.isabellacounty.org](http://www.isabellacounty.org).

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.isabellacounty.org](http://www.isabellacounty.org).

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.

**Approved 6-16-2015**

Replaces previous policy approved 1-17-2006

- I. PURPOSE:** These Operational Procedures have been developed to implement the Isabella County FOIA Procedures and Guidelines adopted by the Board of Commissioners.
- II. DEFINITIONS:**
- A. FOIA:** The Michigan Freedom of Information Act, codified at MCLA 15.321 *et seq.*, as amended.
- B. County FOIA Coordinator:** The County FOIA Coordinator, pursuant to MCL 15.236(1), is the Chairperson of the County Board of Commissioners. As used in this policy, the term "County FOIA Coordinator" shall mean the Chairperson of the County Board of Commissioners, or the Chairperson's designee under MCL 15.236(3).
- C. Department FOIA Coordinator:** The Department FOIA Coordinator is the person designated by an appointed County Department Head or by a County Elected Officer to coordinate with the County FOIA Coordinator in implementing the County FOIA Procedures and Guidelines and ensuring compliance with the Michigan Freedom of Information Act.
- D. Public Body:** Public Body shall include, but not be limited to, the following:
- 1. County Departments:** Administration, Animal Control, Building and Grounds, Central Dispatch, Commission on Aging, Community Development/Inspections, Emergency Management, Equalization, Information Systems, Material Recovery Facility, Parks and Recreation, Veterans Affairs.
  - 2. Elected Officers:** Isabella County elected officers including the Board of Commissioners, Clerk, Register of Deeds, Treasurer, Sheriff, Prosecuting Attorney, and Drain Commissioner.
- Exception:** County Clerk and Clerk's employees when acting as clerks of the Courts do not represent a Public Body.
- E. Public Record:** A writing prepared, owned, used, in the possession of, or retained by a Public Body in the performance of an official function, from the time it is created.
- Exception:** computer software.
- F. Redaction:** Editing of a public record by deletion, masking or separation to remove exempt material from non-exempt material.

- G. **Requesting Person:** An individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity.
- H. **Writing:** The written word, a photocopy, photograph, map, microfilm, sound, symbol, computer file, e-mail or digitally scanned image.

### III. FOIA COORDINATORS:

- A. **Designations:** The statutory County FOIA Coordinator, being the Chairperson of the County Board of Commissioners may, pursuant to MCL 15.236(3), designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial of requests under FOIA.

Each appointed Department Head, in conjunction with the County FOIA Coordinator, and each elected County Officer, may designate an individual to act as Department FOIA Coordinators.

- B. **Responsibilities:** The County FOIA Coordinator and, where applicable, the Department FOIA Coordinators shall be responsible for accepting and processing requests for the Public Body's public records, and shall be responsible for granting or denying public records where appropriate.

1. **Training:** The County FOIA Coordinator and Department FOIA Coordinators shall receive training in the application of FOIA and the use of the required form packet, and shall be advised of amendments to FOIA as necessary. The County FOIA Coordinator and Department FOIA Coordinators shall seek the advice of County's Attorney, when questions of legal interpretation arise.
2. **Form Packet:** The County FOIA Coordinator and Department FOIA Coordinators shall use the Isabella County FOIA Forms adopted with the Isabella County FOIA Procedures and Guidelines to process and respond to requests.
3. **Filed Requests:** The County FOIA Coordinator shall keep all FOIA requests, responses and appeals on file for no less than one (1) year from the date of final response or written decision on appeal, whichever is later.
4. **Monitoring:** The County FOIA Coordinator and Department FOIA Coordinators shall ensure that any FOIA requests he/she receive by electronic device or system are monitored and responded to by a responsible person when the County FOIA Coordinator or Department FOIA Coordinators will not have access to said device or system for more than one (1) business day.

### IV. PROCEDURES:

- A. **Receive Request:** The requesting person shall provide the Public Body with a written request that describes a public record sufficiently to enable the Public Body's FOIA

Coordinator to find it. The written request may be transmitted by facsimile, electronic mail or other electronic means, but if it is transmitted by such means, it will be considered received by the Public Body one (1) business day after the transmission is made.

- B. Forward Request to FOIA Coordinators:** All County officers and employees who receive a FOIA request shall note the date of receipt on the request and forward it within one (1) business day to the County FOIA Coordinator and, where applicable, the Department FOIA Coordinators for the department or agency where the records are kept. If a County officer or employee is unable to determine where to direct the request, it shall be submitted to the County FOIA Coordinator within one (1) business day of receipt. If the County FOIA Coordinator receives a FOIA request directly from a requestor, or from another Department FOIA Coordinator, a copy of the request shall be sent to the Department FOIA Coordinator that may possess the requested documents within one (1) business day. If the Department involved does not have an appointed Department FOIA Coordinator, the request will be sent to applicable Department Head.
- C. Review Request:** After receiving a request and within sufficient time to ensure compliance with the FOIA response requirements, a Department FOIA Coordinator, or Department Head if there is no Department FOIA Coordinator, shall:
1. Determine if there is an existing public record that satisfies the request.
  2. Determine if any requested records, in whole or in part, are available on the County's website.
  3. Determine if any requested records, in whole or in part, are subject to denial or exempt from disclosure. A requested record which is subject to denial or exempt from disclosure, in whole or in part, shall not be disclosed unless approved by County's Attorney.
- D. Determine if Request Contains Grounds for Denial:**
1. A FOIA request shall be denied if the requesting person is serving a sentence of imprisonment in a local, state or federal correctional facility.
  2. A FOIA request shall be denied if the requesting person does not describe a public record sufficiently to enable the Public Body to find it.
  3. A FOIA request shall be denied if it requires the Public Body to create a new public record or make a compilation, summary or report of information.
- E. Examine Request for Exemptions:** The requested public records shall be reviewed as to whether, in whole or in part, they are exempt from disclosure, and whether any portions of the records are subject to redactions prior to disclosure. Any questions concerning the general legal parameters of an exemption, redactions, or applicability

in a particular situation, should be directed to County's Attorney or the County FOIA Coordinator.

- F. Reporting Status:** The Department FOIA Coordinator, or Department Head if there is no Department FOIA Coordinator, shall advise the County FOIA Coordinator within three (3) business days as to whether the requested records exist and whether they are, in whole or in part, available on the County website, and are subject to denial or exempt from disclosure. If additional time is necessary to provide this information, the County FOIA Coordinator will be advised and provided a good faith estimate of when the information can be provided.
- G. Redaction:** If a public record contains both exempt and nonexempt material, the County FOIA Coordinator or Department FOIA Coordinators shall edit the record by deletion, masking or separation of the exempt from the nonexempt material, and shall then provide the nonexempt material to the requesting person. The County FOIA Coordinator shall generally describe the redacted material, unless the description would reveal its contents.
- H. Respond to Request:** The County FOIA Coordinator shall respond to a request, using the required form packet, within five (5) business days from the date upon which he/she receives the request, unless otherwise agreed to in writing by the requesting person.
- I. Process Response:** If the requested record is not subject to one of the grounds for denial or an exemption, it shall be processed in the following manner:

  - 1. Response Options:** Within five (5) business days, unless otherwise agreed to in writing by the requesting person, the County FOIA Coordinator shall do one of the following:

    - a.** Grant the request.
    - b.** Deny the request and provide the reason why the request is subject to denial or exempt.
    - c.** Grant the request in part and deny the request in part.
    - d.** Using the FOIA response form, provide notice extending the response deadline for not more than an additional ten (10) business days. The notice shall contain the reasons for the extension and the date by which the Public Body will respond to the request. Not more than one (1) notice of extension shall be issued.
- J. Fees for Public Records:**

  - 1. Permissible Fees:** The Public Body may charge a fee for copying public records for the requesting person or to enable inspection. A fee may also be charged for search, examination, review or redaction of public records, but

only if failure to charge a fee would result in unreasonably high costs specifically identified by the Public Body. Collected fees shall be credited to the Public Body that incurred the cost of processing the request.

2. **Calculation of Fees:** The applicable fees shall be calculated by the County FOIA Coordinator in accordance with the County's FOIA Procedures and Guidelines and using the Detailed Cost Itemization Form. The Department FOIA Coordinators shall assist in providing the applicable labor and copying costs to the County FOIA Coordinator.

**K. Deposit:** If the total fee exceeds \$50.00, the County FOIA Coordinator or Department FOIA Coordinators may require a deposit of not more than one-half of the fee. The Requestor will also be provided a good faith estimate of when the records will be provided to the requester when a deposit is required.

**L. Fee Payment Enforcement:** Once copies of the requested records have been made, the Public Body is authorized to require payment of fees in full before it delivers the records to the requesting person.

**Exception:** If a deposit is required, the Public Body may refuse to process the request until the deposit is paid.

**M. Exceptions to Fee Procedure:**

1. Public records may be provided without charge or at reduced charge if the Public Body determines that the record primarily benefits the general public, and it is in the public interest to provide it without charge or at reduced charge.
2. The first \$20.00 of the total fee for requested records shall be waived if the requesting person submits an Affidavit of Indigence (contained in the required form packet).

**N. Appeal:** A requesting person has the right to appeal the denial of a request for public records, or to appeal the fees charged. All such Appeals shall be filed with the County FOIA Coordinator and shall be processed in accordance with the Isabella County FOIA Procedures and Guidelines.