

WRITTEN PUBLIC SUMMARY OF
COUNTY OF MONTCALM FOIA
PROCEDURES AND GUIDELINES

1. How do I submit a Freedom of Information Act ("FOIA") request?

- FOIA requests to the County of Montcalm ("The County") must be submitted in writing.
- The request must contain a description of the record(s) requested that is sufficient for the County to be able to determine what you are asking for and to be able to find the record, if it exists.
- You do not need to use a specific form. However, if you choose, you may use the form found at this link www.montcalm.org.
- You may submit your request in person, by mail, by facsimile, or by e-mail. If you are submitting by mail, send the attention of the FOIA Coordinator at the following address: **Montcalm County Attn: FOIA Coordinator PO Box 368 Stanton, MI 48888**. If you are submitting by facsimile, use the following number: 989.831.7375. If you are submitting by e-mail, requests must be submitted to the following address: foia@co.montcalm.mi.us.
- Although not required, to assist and allow us to more promptly respond to your request, we suggest that all requests include the word **"FOIA" or "FOIA request"** near the beginning of the request or, for e-mail communications, in the subject line of the e-mail.

2. What should I expect to receive from the County in response to my request?

- The County will respond to a FOIA request within five (5) business days of receiving it. (A request sent by facsimile or e-mail is considered received on the day following its transmission.)
- The response will:
 - Grant the request.
 - Issue a notice denying the request.
 - Grant the request in part, and issue a written notice denying the request in part.
 - Inform you that the County needs an additional ten (10) business days to respond.
 - Inform you that the public record requested is available at no charge on the County's website.
 - All responses will include a link to or a hard copy of the County's FOIA Procedures and Guidelines.

- If the County is charging a fee for responding to the request, you will also receive a form itemizing the charges. Payment will be due prior to providing you with the requested public records.
- You may be required to submit a deposit as well, as described below.

3. When do I need to provide a fee deposit?

- If the County determines through a good faith calculation that the total fee for processing the request exceeds \$50, it will require that you provide a deposit of 50% of the total estimated fee. In addition to requesting the deposit, the County will provide you with a non-binding best effort estimate of how long it will take to process the request upon receipt of your deposit.
- If you have not paid the County for copies of public records you received in a previously granted written request under the circumstances described below, MCC will require a deposit of 100% of the estimated processing fee. MCC will not undertake a search for the public records until the fee is paid. This only applies if:
 - A final fee for your prior request was not more than 105% of the estimated fee.
 - The previously provided public records contain the information that you asked for and remain in the County's possession.
 - You were able to obtain the previously requested records from the County, subject only to payment, within the timeframe the County estimated to provide the records.
 - 90 days or more have passed since the County notified you that the previously requested public records were available.
 - You are unable to show proof of prior payment.
 - The County has calculated and provided you with an estimated detailed itemization of the basis for the fee deposit for the current request.
- You will not be required to pay the 100% fee referenced above, even if the appropriate circumstances exist, if any of the following apply:
 - You are able to show proof of prior payment in full.
 - You pay the prior invoice in full.
 - 365 days have passed since you made the request for which you did not submit full payment.

4. How are FOIA processing fees calculated?

- You will only be charged a fee if the cost of search, examination, review, and deletion and redaction of exempt from non-exempt information will result in an unreasonably

high cost because of the nature of the request and the County specifically identifies the nature of the unreasonably high costs.

- If the County does charge a fee, it is permitted to and will assess and collect a fee for the following six components:
 - Labor costs associated with searching for, locating and examining a requested public record.
 - Labor costs associated with a review of the record to separate and redact information exempt from disclosure.
 - The cost of computer discs, tapes or other digital or similar media if you have asked for the records to be produced in a non-paper physical media form.
 - The cost of duplication or publication of paper copies of records, not including labor.
 - The labor costs associated with duplication or publication of copies, including paper copies, digital copies or transference of digital public records to non-paper physical media.
 - The cost to mail or send a public record to you.
- The above components are all identified on the fee itemization form that will be provided with each FOIA response for which the County intends to charge a fee. The fee itemization contains additional details regarding what types of costs may be charged and how they will be calculated. A copy of that form is found at www.montcalm.org.

5. Am I entitled to a reduction of the processing fees?

- You are entitled to a waiver of the first \$20 of the processing fee if you submit an affidavit (i.e., a sworn statement) stating that you are indigent and receiving specific public assistance or, if you are not receiving public assistance, stating facts demonstrating your inability to pay because of indigency.
- You are not eligible, however, to receive this waiver if you have received discounted copies of public records from the County twice or more during the calendar year or if you are requesting information on behalf of other people who are offering or providing payment to you to make the request.
- Certain non-profit organizations, as described in the statute, may also qualify for the waiver of the processing fee.

6. What happens if I do not agree with a denial or think the County of Montcalm is charging an excessive fee?

- You may appeal if the County denies your request in whole or in part. If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted, you may file an appeal with the County Board of Commissioners. This

appeal must be in writing and must contain the word "appeal." It also must identify the reason or reasons for which you are seeking a reversal of the County's denial.

- You will receive a written response from the County Board of Commissioners within ten (10) business days after receipt of the appeal. The response will either reverse the disclosure denial, uphold the disclosure denial, or reverse in part and uphold in part. If the appeal requires the County Board of Commissioners to review voluminous amounts of materials, he/she may provide notification that he/she will take an additional ten (10) business days to respond.
- You may also file a civil action in Montcalm County Circuit Court. You may do so regardless of whether you filed an appeal with the County Board of Commissioners. A civil action must be started within One Hundred Eighty (180) days after the County's final determination denying your request. If you win in the circuit court, you will be awarded your reasonable attorneys' fees, costs and disbursements. If the court determines that the County acted arbitrarily and capriciously in refusing to disclosure or provide the requested record, you will also receive damages in the amount of One Thousand and 00/100 (\$1,000.00) Dollars.
- You may also appeal if you believe you have been charged in excess of the allowable FOIA processing fee. To do so, you must first submit a written appeal for a fee reduction to the Board Chairperson. This appeal also must be in writing and specifically include the word "appeal." You must also identify specifically how you believe the required fee exceeds the amount permitted by law.
- The Board Chairperson will respond in writing within ten (10) business days after filing an appeal. The response will either be waiver of the fee, reduction of the fee with a written determination of the specific basis supporting the remaining fee, upholding the fee with a written determination of the specific basis for upholding the fee or issuance of a notice of the reasons why the Board Chairperson needs up to ten (10) additional business days in which to respond to the appeal.
- You may appeal the Board Chairperson's determination of any processing fee appeal within forty-five (45) days after receiving the notice. To do so, you must start a civil action in the Montcalm County Circuit Court requesting a fee reduction. If you win a civil action and receive a reduction of fifty percent (50%) or more of the total fee, the court may award all or an appropriate amount of your reasonable attorneys' fees, costs and disbursements. If the court decides that the County acted arbitrarily and capriciously by charging an excess fee, it may also award you punitive damages in the amount of Five Hundred and 00/100 (\$500.00) Dollars.

7. **What if I still have questions?**

If you have any additional questions, please refer to the County's complete FOIA procedures and guidelines. These guidelines are available at www.montcalm.org as well as in Office of the County Controller.