

COUNTY OF MONTMORENCY

WRITTEN PUBLIC SUMMARY OF FOIA PROCEDURES AND GUIDELINES

Consistent with Public Act 563 of 2014 amending the Michigan Freedom of Information Act (FOIA), the following is the Written Public Summary of the County's FOIA Procedures and Guidelines relevant to the general public.

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

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the County of Montmorency must be obtained in writing.
- A request must sufficiently describe a public record so as to enable the County to find it.
- No specific form to submit a written request is required. However a FOIA Request form for your use and convenience is available on the County's website at www.montcounty.org
- Written requests can be made in person by delivery to any County office in person or by mail.
- Requests can also be made by facsimile at 989-785-8001 for non-Public Safety records and 989-785-4471 for Public Safety records.
- A request may also be submitted by e-mail. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line and be sent to dhubbard@montcounty.org.

Note: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for a public record.

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

- Within 5 business days of receipt of a FOIA request the County will issue a response. If a request is received by facsimile or e-mail 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.
 - 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 fee deposit requirements?

- If the County has made a good faith calculation that the total fee for processing the request exceeds \$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 following receipt by the County of 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 time frame estimated by the County to provide the records;
 - 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 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
 - 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?

- A fee will not be charged for the 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.

- The Michigan FOIA statute permits the County to assess and collect a fee for six designated processing components. The County may charge for the following costs associated with processing a request:
 - Labor costs associated with searching for, locating and examining a requested public record.
 - Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
 - The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media.
 - The cost of duplication or publication, not including labor, of paper copies of public records.
 - Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
 - 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.
 - 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.
- Non-paper 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 only be assessed 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 of paper will reflect the actual cost of reproduction.
 - The County may provide records using double-sided printing, if cost-saving and available.
- 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 requested.

5. How do I qualify for a reduction of the processing fees?

- The County may waive or reduce the fee associated with a request when the County determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public.
- The County will waive the first \$20.00 of the processing fee for a request if you submit an affidavit stating that you are:
 - Indigent and receiving specific public assistance; or
 - If not receiving public assistance, stating facts demonstrating an inability to pay because of indigency.
- You are not eligible to receive the \$20.00 waiver 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 Indigency form for the waiver of FOIA fees on its website.

- The County will waive the fee for a nonprofit organization which meets all of the following conditions:
 - The organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
 - The request is made directly on behalf of the organization or its clients;
 - The request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
 - The request is accompanied by documentation of the organization’s designation by the State.

6. 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 file an appeal of the denial with the Board of Commissioners Office. The appeal must be in writing, specifically state the word “appeal” and identify the reason or reasons you are seeking a reversal of the denial.

Within 10 business days of receiving the appeal the Board Chairman, 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 Board Chairman, you may file a civil action in 26th Circuit Court within 180 days after the County’s final determination to deny your request. Should you prevail in the civil action the court will award you reasonable attorney’s 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 \$1,000.00.

- Appeal of an Excessive 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 submit a written appeal for a fee reduction to the Board of Commissioners Office. The appeal must be in writing, specifically state the word “appeal” and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Board Chairman 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 Board Chairman will respond to the written appeal.

Within 45 days after receiving notice of the Board Chairman's determination of the processing fee appeal, you may commence a civil action in 26th 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 an appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the County acted arbitrarily and capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.00.

Need more details of information?

This is only a summary of the County of Montmorency's FOIA Procedures and Guidelines. For more details and information, copies of the County of Montmorency's FOIA Procedures and Guidelines are available at no charge at any County office and on the County's website, www.montmorencycountymichigan.us.

Preamble: Statement of Principles

It is the policy of the County of Montmorency that all persons, except those who are serving a sentence of imprisonment, 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 of Montmorency'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 of Montmorency acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The County of Montmorency 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.

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

Section 1: General Policies

The County Commissioners acting pursuant to the authority at MCL150236 designates the Board Secretary as the FOIA Coordinator. He or she is authorized to designate other County staff to act on his or 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 facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail 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 his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.