

**MIDLAND COUNTY
FREEDOM OF INFORMATION ACT (FOIA)**

I.

POLICY: 101.18

Number: 101
Section: 101.18

Subject: FREEDOM OF INFORMATION ACT (FOIA)

1. **PURPOSE.** The purpose of this Policy is to:
 - 1.1 Assure timely compliance with the Michigan Freedom of Information Act (Act 442, Public Acts of 1976, as amended) (the Act) by Midland County, its officers, elected and appointed, and employees;
 - 1.2 Promote access to public records, except certain of those records which may be exempt from disclosure as may be provided by the Act, or by operation of a Michigan statute or United States Public Law;
 - 1.3 Provide notice the citizenry of the availability of information subject to the Act, and of available remedies for requestors aggrieved by the response to the request for information pursuant to the Act (which is hereby incorporated into this Policy).
2. **AUTHORITY.** The Authority for this Policy is the Midland County Board of Commissioners through powers vested in, or required of it by Michigan statutory law.
3. **APPLICATION.**
 - 3.1 This policy applies to all elected officials, department heads, employees, agencies and offices of Midland County.
 - 3.2 The terms of the Act shall apply in the event an aspect of this Policy is inconsistent with provisions of the Act.
4. **RESPONSIBILITY.** The Board Chair shall have the responsibility of administration of this policy. The Administrator/Controller shall have responsibility for implementing this policy.
5. **DEFINITIONS.** Except for the definitions below, words and phrases found in this policy shall have the meaning given to them by the Act. All words and phrases not defined by the Act shall have the meaning given to them by commonly accepted definitions of English language dictionaries.
 - 5.1 ‘Act’ means the Michigan Freedom of Information Act, being Act 442, Public Acts of 1976, as amended.
 - 5.2 ‘Request’ means a written request for a public record which describes a public record sufficiently to enable the public body to find the record.
 - 5.3 ‘Requestor’ means a person (defined in the Act) who delivers a written request for a public record.

5.4 'Response' means the action taken to a request by a requestor by the County. Generally, the action may be a grant of the request, grant in part or denial in part of the request, or denial of the request.

6. RESPONDING TO FOIA REQUESTS.

6.1 In accordance with the Act, the Chairperson of the Midland County Board of Commissioners is the County FOIA Coordinator. The FOIA Coordinator shall be responsible for accepting and processing requests for records covered under the Act (See Attachments A and B).

6.2 The Midland County Board of Commissioners Chairperson may designate a person to act on the Chairperson's behalf in accepting and processing requests for the County's Public Records and in approving denial of same.

6.3 All FOIA requests must be submitted in writing. This includes requests received by facsimile, electronic mail or through other electronic means. Requests received by facsimile, electronic mail, or other electronic transmission are not considered received until one (1) business day after the electronic transmission is made.

6.3.1 An electronic mail request that is transmitted to a spam or junk mail folder is not considered received until one (1) business day after the County becomes aware of the request.

6.3.2 The FOIA Coordinator, designee, and department heads (elected officials) shall check his or her spam or junk mail folder not more than a monthly basis for FOIA requests and shall keep a log of when such requests are first delivered and received.

6.4 A request must describe the public record sufficiently to enable the County to find the public record. A request that is overly vague or that does not give reasonable time parameters will not be granted.

6.5 Within five (5) business days after receiving a request for public records the FOIA Coordinator or designee will:

6.5.1 Grant the request. (See Attachment C)

6.5.2 Grant the request in part and deny the request in part. (See Attachment D)

6.5.3 Grant the request with specific redactions (See Attachment E)

6.5.4 Certify that the document(s) requested do not exist. (See Attachment F)

6.5.5 Deny entire request. (See Attachment G)

- 6.5.4 Request an extension of ten (10) business days for additional response time. (See Attachment H)
- 6.5.5 Request a deposit in accordance with Section 9, below. (See Attachment I)
- 6.6 Failure to respond to a request constitutes a denial if:
 - 6.6.1 The failure to respond was willful and intentional; or
 - 6.6.2 The request included language that would allow it to be identified as a request for public records or a FOIA request.
- 6.7 If any of the requested documents are on the County's website, the requestor shall be informed and no fee shall apply to the request unless the requestor subsequently requests copies of those public records.
- 6.8 A specific request can be denied if it falls within one of the enumerated exemptions listed in the FOIA or by operation of a Michigan Statute or Federal Law.
- 6.9 Notice to deny a request in whole, or in part, by the FOIA Coordinator or designee shall contain an explanation for the grounds under FOIA or other statute for the determination that the public record or portion of the public record is exempt from disclosure. If an exemption is used to deny a request, the specific statutory citation for and verbiage of the exemption will be included in the denial. All denials must be signed by the FOIA Coordinator or designee. All responses will also include a description of the denied record, an explanation of the requestor's right to appeal, and/or a certificate verifying that the record does not exist under the name given by the requestor or by another name reasonably known to the County. Except where the requested record does not exist, all full or partial denials shall be forwarded to Civil Counsel for review at least two (2) days prior to the date the response is due.
- 6.10 The FOIA Coordinator or designee will keep on file a time stamped copy of all requests and responses for a period of one (1) year following their receipt or issuance.

7. PROCEDURE UPON RECEIPT OF A REQUEST FOR INFORMATION.

- 7.1 An employee, upon receipt of a written (writing, by facsimile, electronic mail, or other electronic means) request for information (or what appears to be such a request) the employee shall time stamp the request, and thereafter shall immediately contact the employee's supervisor, advising the supervisor of the request.
- 7.2 The supervisor shall immediately inform the department head of receipt of the request (unless the supervisor is the department head) who shall immediately forward the request to the FOIA Coordinator or designee.
- 7.3 The department head and coordinator will determine whether the request can be granted without consideration of potentially exempt information/data, and if the

requested information/data is within the threshold for its provision without charge to the requestor.

- 7.3.1 If fulfilling the request without charge is appropriate, the supervisor shall complete a notification granting the request to the requestor, and comply with the request, providing a copy of the response to the FOIA Coordinator.
- 7.3.2 If it is determined that, pursuant to statute and these guidelines, a fee is to be charged, the Coordinator shall provide notice to the requestor indicating the request is granted in whole or in part, as the case may be, and shall comply with the request, including along with the material a statement of fees charged.
- 7.3.3 If pursuant to a good faith estimate the amount of the fees will exceed \$50, a request for a deposit of up to 50% of the estimate shall be made of the requestor to be paid prior to filling the request. Upon receipt of the deposit, the supervisor shall produce the requested information, determine the actual fees pursuant to the approved fee calculation worksheet and fulfill the request, providing the information and a statement to the requestor. The amount of a fee charged shall be determined by statutory formula, and no fee shall be charged in excess of that allowed by statute.
- 7.3.4 Whenever fees are charged, a completed Fee Worksheet shall be included with the determination letter.

8. Fees.

8.1 The County will charge fees for:

8.1.1 The actual labor costs for searching for, locating, and examining records;

8.1.1.1 The cost of labor directly associated with the necessary searching for, locating, and examining a public record in conjunction with receiving and fulfilling a granted written request;

8.1.2 The actual labor costs for redacting records;

8.1.2.1 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;

8.1.3 Non-paper physical media;

8.1.4 Paper copies;

8.1.4.1 Copying costs may be charged if a copy of a public record is requested or for the necessary copying of a record for inspection (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);

8.1.5 The actual labor costs for duplication or publication of records;

8.1.5.1 The cost of labor directly associated with duplication or publication, including making paper or digital copies or transferring digital records on non-paper physical media, through the Internet, or other electronic means as stipulated by the requestor;

8.1.6 Mailing.

8.1.6.1 The County will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner;

8.1.6.2 The County will not charge more for expedited shipping, insurance, or other special delivery accommodations unless specifically requested by the requestor.

All responses will use the attached Fee Worksheet, utilized to determine the fee charged by the County (See Attachment Fee Worksheet J)

8.2 Actual labor costs will be charged in 15-minute increments, rounded down. In calculating the cost of labor incurred in searching for, locating, and examining records, redacting records, and duplication or publication, the County will not charge more than the hourly wage of the lowest paid County employee capable of retrieving the information necessary to comply with the request. The County may also add up to 50% to the multiplier used to account for benefits. Subject to the 50% limitation, the County shall not charge more than the actual cost of fringe benefits.

8.3 If no County employee is capable of redacting the records, the County may forward such records to Civil Counsel for redaction. Charges for such contracted labor may not exceed six (6) times the State minimum wage determined pursuant to Act 138, Public Acts of 2014, and must be itemized on the calculation worksheet.

8.4 A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from non-exempt information when such labor takes no more than fifteen (15) minutes to complete. If such labor requires more than 15 minutes to complete, such a fee will be charged because failure to do so would 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.

8.5 The first \$20.00 of the fee shall be waived for each request of an individual who is entitled to information under the Act and who submits an "Affidavit of Indigency" stating they are indigent and receiving public assistance or, if not receiving public assistance, stating facts showing their inability to pay the full fee. (See attachment K)

- 8.5.1 An indigent individual may only receive two (2) such fee waivers per calendar year.
- 8.6 The first \$20.00 of the fee shall be waived for each request of a nonprofit organization that is 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.
- 8.7 If the County fails to timely respond to a request, it will reduce its labor costs by 5% per day a response is late up to a maximum 50% reduction if:
 - 8.7.1 The late response was willful and intentional; or
 - 8.7.2 The request included language that would allow it to be identified as a request for public records or a FOIA request.
- 8.8 The County Controller/CAO shall provide for the calculation of a fee for reproducing documents. This calculation will include paper, copy machine, and supplies cost. The County Administrator/Controller/CAO shall also determine the fee to be charged for envelopes. These fees shall be calculated periodically and be communicated to all Elected Offices and Departments of the County.
- 8.9 If the total cost for the non-paper physical media, paper copies, and/or mailing of a response is less than \$10.00, the fee shall be waived.
- 8.10 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.
- 8.11 All requests shall be fulfilled by paper media, unless the requestor shall ask for an alternative media form as described in Section 4(c) of the Act.
- 8.12 A copy of the request shall be maintained by the FOIA Coordinator and/or designee for a period of one year after receipt thereof.

This section does not apply to public records prepared by County departments or offices under a separate law authorizing the sale of those public records to the public.

9. Deposits. The County may charge a deposit if:

- 9.1 The anticipated cost of granting the request is expected to exceed \$50.00.
 - 9.1.1 In such cases, a notice to provide a good faith deposit of 50% of the cost prior to granting the request will be sent. (See Attachment I)

- 9.1.2 The request for a good faith deposit must also include a “best efforts estimate” as to the amount of time it will take the County to fulfill the request upon receipt of the deposit.
- 9.2 The County may require a 100% deposit from an individual who has not paid a previous FOIA fee in full. Such a deposit may only be required if:
 - 9.2.1 The final fee for the prior written request was not more than 105% of the estimate fee.
 - 9.2.2 The public records made available contained the information being sought in the prior written request and are still in the public body’s possession.
 - 9.2.3 The public records were made available to the individual, subject to payment, within the time frame provided by law.
 - 9.2.4 No fewer than 90 days but no more than 365 days have passed since the County notified the individual in writing the records were available for pick up or mailing.
 - 9.2.5 The individual is unable to show proof of prior payment to the County.
 - 9.2.6 The County calculates a detailed itemization that is the basis for the current written request’s increased estimate fee deposit.
- 9.3 The County can no longer require an increased estimated fee deposit (i.e. 100% deposit) from an individual if any of the following apply:
 - 9.3.1 The individual is able to show proof of prior payment in full to the County;
 - 9.3.2 The County is subsequently paid in full for the applicable prior written request; or
 - 9.3.3 365 days have passed since the individual made the written request for which full payment was not remitted to the County.
- 10. Appeal. Any department that receives notification of the appeal of a full or partial denial of a FOIA request, or fee associated with preparing the response to same, shall immediately forward said appeal to the Board Office. The Board Assistant shall forward a copy of said appeal to Midland County counsel. The Board of Commissioners shall respond to such appeals within ten (10) business days from their receipt of same. The Board of Commissioners is not considered to have received an appeal until the first regularly scheduled Board meeting following submission of the appeal.
 - 10.1 The Board may deliberate and take one of the following actions in response to the filing of an appeal:
 - 10.1.1 Reverse the disclosure denial.

- 10.1.2 Affirm the disclosure denial or fee charged.
 - 10.1.3 Reverse the disclosure denial in part and affirm the disclosure denial in part.
 - 10.1.4 Modify the fee charged.
 - 10.1.5 Under unusual circumstances, issue a notice extending for not more than 10 business days the period for issuing a response. The County can only issue one 10-day extension.
- 10.2 If the Board fails to respond to a written appeal or upholds all or a portion of the disclosure denial/fee charged that is the subject of the appeal, the requestor may seek judicial review of the decision by commencing an action in the Midland County Circuit Court.
11. Summary: The County shall create a written summary of the specific procedures and guidelines relevant to the general public regarding how to submit a FOIA request to the County and explaining how to understand its responses, deposit requirements, fee calculations, and avenues for challenge and appeal. (See Attachment L)
12. Publication: The County shall post and maintain this policy, as well as the summary, on its website, as well as provide free copies of same upon request by visitors at the County's Board office. Either a copy of both this policy and the summary or the website link to such documents shall be provided with any response to a FOIA request.
13. Attachments: The attachments to this policy may be revised, in a manner consistent with this policy, by the County Controller/CAO as needed due to changes in the law.
14. In the event of an inconsistency between the Act and this document, or Summary of the County Policy, the terms of the Act shall control.

**MIDLAND COUNTY
FREEDOM OF INFORMATION ACT (FOIA)**

II.

SAMPLE FORMS

ATTACHMENT A
MIDLAND COUNTY
FREEDOM OF INFORMATION ACT REQUEST FORM

(To be completed by the requestor)

[Date]

FOIA Coordinator/Designee
Midland County [Department]
[Address]

Phone: 989. _____ - _____
Fax: 989. _____ - _____

Dear Coordinator/Designee:

In accordance with the Freedom of Information Act (MCL 15.231 et seq, Public Act 553 of 1997), as amended, and the Midland County Freedom of Information Act Request Policy, I am asking for the following information:

I understand the Act allows a public body to charge a fee and that I will be notified of same.

(Please print clearly)

Name: _____ Email: _____
Address: _____
Phone: _____ Fax: _____

Respectfully,

Requestor's signature

MC\[DEPARTMENT]Time Stamp

ATTACHMENT B

LETTER TO ELECTED OFFICIAL/DEPARTMENT HEAD

[MIDLAND COUNTY DEPARTMENT LETTERHEAD]

[Date]

Elected Official / Department Head

Dear * :

Attached is a request dated _____ which we received from on _____ asking for information under the Freedom of Information Act. As the FOIA Coordinator, I am designating you to respond on the County's behalf.

Please process in accordance with the Freedom of Information Act and the Midland County Freedom of Information Act Request Policy.

Please send me a copy of your responding cover letter as the Midland County Board of Commissioners by law must keep the request/response on file for a one (1) year period.

Do not hesitate to contact me should you have any questions.

Yours very truly,

[Name of FOIA Coordinator/Designee]
Midland County Board of Commissioners

ATTACHMENT C

GRANTING REQUEST IN FULL

[MIDLAND COUNTY DEPARTMENT LETTERHEAD]

[Date]

To *

Re: Granting Your Request in Full

Dear * :

Please be advised that on the _____ day of _____, 1015, you submitted a FOIA request for the following public record(s):

[INSERT DESCRIPTION OF THE PUBLIC RECORD(S) AND
PREFERABLY USE THE WORDING OF THE REQUESTER OF THE
PUBLIC RECORD(S)]

Your request is granted in its entirety and the documents are enclosed.

If you feel aggrieved by the action described above, pursuant to MCL Sec. 15.235(4), you have the right to submit to the Chairman of the County Board of Commissioners a written appeal which specifically includes the word "appeal" and which identifies the reason or reasons for your requested reversal of this disclosure request response. You may also seek judicial review of this response pursuant to MCL Sec. 15.240. If, after judicial review, a Circuit Court determines that this Public Body has not complied with the act and orders a disclosure of all, or a portion of the public record in question, you may have the right to receive attorney fees and damages as provided in MCL Sec. 15.240 of the Michigan Freedom of Information Act.

Please feel free to contact me should you have any questions or comments concerning this response.

Yours very truly,

[Name of FOIA
Coordinator/Designee]
Midland County [Department]

101-3-C

ATTACHMENT D

FOIA REQUEST GRANTED IN PART AND DENIED IN PART

[MIDLAND COUNTY DEPARTMENT LETTERHEAD]

[Date]

To *

Re: Your Recent FOIA Request is Granted in Part and Denied in Part

Dear * :

Please be advised that we have received and reviewed your recent FOIA request which was received by Midland County on the _____ day of _____, 2015.

Your request is granted in part with respect to the following documents:

[INSERT A LIST OF THE DOCUMENTS THAT YOU ARE PROVIDING]

We have denied your request in part and/or have redacted from the record the following:

[LIST THE NATURE OF THE RECORD YOU ARE NOT DISCLOSING AND/OR RECACTING AND PROVIDE THE SPECIFI REASON(S) THAT THE RECORD IS EXEMPT FROM DISCLOSURE UNDER FOIA. OBVIOUSLY, DO NOT DISCLOSE WHAT THE CONTENTS OF THE RECORD ARE IN YOUR EXPLANATION]

If you feel aggrieved by the action described above, pursuant to MCL Sec. 15.235(4), you have the right to submit to the Chairman of the County Board of Commissioners a written appeal which specifically includes the word "appeal" and which identifies the reason or reasons for your requested reversal of this disclosure request response. You may also seek judicial review of this response pursuant to MCL Sec. 15.240. If, after judicial review, a Circuit Court determines that this Public Body has not complied with the act and orders a disclosure of all, or a portion of the public record in question, you may have the right to receive attorney fees and damages as provided in MCL Sec. 15.240 of the Michigan Freedom of Information Act.

Please feel free to contact me should you have any questions or comments concerning this response.

Yours very truly,

[Name of FOIA
Coordinator/Designee]
Midland County [Department]

101-4-D

ATTACHMENT E

FOIA REQUEST GRANTED WITH SPECIFIC REDACTIONS

[MIDLAND COUNTY DEPARTMENT LETTERHEAD]

[Date]

To *

Re: Your Recent FOIA Request is Granted with Specific Redactions

Dear * :

Please be advised that I have granted your request in part. Please find the following documents:

[INSERT A LIST OF THE DOCUMENTS YOU ARE PROVIDING]

However, some of the items in this request have to be redacted for the following reasons:

EXPLAIN THE NATURE OF THE RECORDS REDACTED AND THE SPECIFIC EXEMPTION FROM FOIA THAT APPLIED. OBVIOUSLY DO NOT DISCLOSE THE CONTENTS OF THE RECORD IN YOUR EXPLANATION.]

If you feel aggrieved by the action described above, pursuant to MCL Sec. 15.235(4), you have the right to submit to the Chairman of the County Board of Commissioners a written appeal which specifically includes the word "appeal" and which identifies the reason or reasons for your requested reversal of this disclosure request response. You may also seek judicial review of this response pursuant to MCL Sec. 15.240. If, after judicial review, a Circuit Court determines that this Public Body has not complied with the act and orders a disclosure of all, or a portion of the public record in question, you may have the right to receive attorney fees and damages as provided in MCL Sec. 15.240 of the Michigan Freedom of Information Act.

Please feel free to contact me should you have any questions or comments concerning this response.

Yours very truly,

[Name of FOIA Coordinator/Designee]
Midland County [Department]

101-5-E

ATTACHMENT F

DOCUMENT(S) REQUESTED DO NOT EXIST

[MIDLAND COUNTY DEPARTMENT LETTERHEAD]

[Date]

To *

Re: Document(s) Requested in Your Recent FOIA Request do not exist

Dear * :

Recently, on the ____ day of _____, 2015, you submitted a FOIA request for the following public record(s):

[INSERT DESCRIPTION OF THE PUBLIC RECORD(S) AND
PREFERABLY USE THE WORDING OF THE REQUESTER OF THE
PUBLIC RECORD(S)]

As the FOIA Coordinator/designee for Midland County, I have searched for the records and determine that it does (they do) not exist.

If you feel aggrieved by the action described above, pursuant to MCL Sec. 15.235(4), you have the right to submit to the Chairman of the County Board of Commissioners a written appeal which specifically includes the word “appeal” and which identifies the reason or reasons for your requested reversal of this disclosure request response. You may also seek judicial review of this response pursuant to MCL Sec. 15.240. If, after judicial review, a Circuit Court determines that this Public Body has not complied with the act and orders a disclosure of all, or a portion of the public record in question, you may have the right to receive attorney fees and damages as provided in MCL Sec. 15.240 of the Michigan Freedom of Information Act.

Please feel free to contact me should you have any questions or comments concerning this response.

Yours very truly,

[Name of FOIA Coordinator/Designee]
Midland County [Department]

101-6-F

ATTACHMENT G

LETTER DENYING ENTIRE REQUEST

[MIDLAND COUNTY DEPARTMENT LETTERHEAD]

[Date]

To *

Re: Your Recent FOIA Request is denied

Dear *:

After review of your Freedom of Information Act request dated _____, 2015, received by the Midland County Board of Commissioners Chairperson on _____, a decision has been made to deny your request because such information (check appropriate line) _____ does not exist / is exempt from disclosure pursuant to _____, which states:

If you feel aggrieved by the action described above, pursuant to MCL Sec. 15.235(4), you have the right to submit to the Chairman of the County Board of Commissioners a written appeal which specifically includes the word "appeal" and which identifies the reason or reasons for your requested reversal of this disclosure request response. You may also seek judicial review of this response pursuant to MCL Sec. 15.240. If, after judicial review, a Circuit Court determines that this Public Body has not complied with the act and orders a disclosure of all, or a portion of the public record in question, you may have the right to receive attorney fees and damages as provided in MCL Sec. 15.240 of the Michigan Freedom of Information Act.

Please feel free to contact me should you have any questions or comments concerning this response.

Yours very truly,

[Name of FOIA Coordinator/Designee]
Midland County [Department]

ATTACHMENT H

LETTER FOR 10-DAY EXTENSION

[MIDLAND COUNTY DEPARTMENT LETTERHEAD]

[Date]

To *

Re: 10-Day Extension to Respond to your FOIA Request

Dear * :

Please be advised that your FOIA request received by Midland County on the ____ day of _____, 2015 will require extra time to search for and respond to your request.

Pursuant to MCL 15.235(2)(d), I am extending the time to respond to your request. Accordingly, Midland County will respond to your request on or before the ____ day of _____, 201__.

Please feel free to contact me should you have any questions or comments concerning this response.

Yours very truly,

[Name of FOIA Coordinator/Designee]
Midland County [Department]

101-8-H

ATTACHMENT I

DEPOSIT IS REQUIRED TO PROVIDE DOCUMENTS REQUESTED

[MIDLAND COUNTY DEPARTMENT LETTERHEAD]

[Date]

To *

Re: A Deposit is Required to Provide Documents for your Recent FOIA Request

Dear * :

Recently, on the ____ day of _____, 201____, you submitted a FOIA request for the following public records(s):

[INSERT DESCRIPTION OF THE PUBLIC RECORDS AND PREFERABLY USE THE WORDING OF THE REQUESTER OF THE PUBLIC RECORD(S)]

I have attached our estimate of the expected fee that will be incurred if this FOIA Request is processed. Please remit 1/2 of this amount, \$_____ (dollars), before this request is processed. Please make a check payable to Midland County. If you have any questions or concerns, please feel free to contact me.

If you feel aggrieved by the action described above, pursuant to MCL Sec. 15.235(4), you have the right to submit to the Chairman of the County Board of Commissioners a written appeal which specifically includes the word “appeal” and which identifies the reason or reasons for your requested reversal of this disclosure request response. You may also seek judicial review of this response pursuant to MCL Sec. 15.240. If, after judicial review, a Circuit Court determines that this Public Body has not complied with the act and orders a disclosure of all, or a portion of the public record in question, you may have the right to receive attorney fees and damages as provided in MCL Sec. 15.240 of the Michigan Freedom of Information Act.

Please feel free to contact me should you have any questions or comments concerning this response.

Yours very truly,

[Name of FOIA Coordinator/Designee]
Midland County [Department]

ATTACHMENT J

FOIA REQUEST FEE WORKSHEET

(Effective July 1, 2015)

Component	Cost Calculations	Total
1. Labor Costs – Search, Location, and Examination of Records*	<p>Enter the hourly wage of lowest paid employee capable of performing the search, location and examination $\\$ \underline{\hspace{2cm}}$ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) $\underline{\hspace{2cm}}\%$</p> <p>Multiply the hourly wage times the fringe benefit multiplier $\\$ \underline{\hspace{2cm}} \times 1.\underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}$</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) $\\$ \underline{\hspace{2cm}} + \underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}$</p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment $\\$ \underline{\hspace{2cm}} / 4 = \\$ \underline{\hspace{2cm}}$</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate $\underline{\hspace{2cm}} \times \\$ \underline{\hspace{2cm}} = \\$ \underline{\hspace{2cm}}$</p>	<p>\$ <u> </u></p>
2. Employee Labor Costs – Redaction*	<p>If performed by the public body’s employee: Enter the hourly wage of lowest paid employee capable of performing the redaction $\\$ \underline{\hspace{2cm}}$ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) $\underline{\hspace{2cm}}\%$</p> <p>Multiply the hourly wage times the fringe benefit multiplier</p>	

	$\text{\$ } \underline{\hspace{2cm}} \times 1. \underline{\hspace{1cm}} = \text{\$ } \underline{\hspace{2cm}}$ <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)</p> $\text{\$ } \underline{\hspace{2cm}} + \underline{\hspace{2cm}} = \text{\$ } \underline{\hspace{2cm}}$ <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment</p> $\text{\$ } \underline{\hspace{2cm}} / 4 = \text{\$ } \underline{\hspace{2cm}}$	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> $\underline{\hspace{2cm}} \times \text{\$ } \underline{\hspace{2cm}} = \text{\$ } \underline{\hspace{2cm}}$	\\$ <u> </u>
2. Contracted Labor Costs – Redaction*	<p>If performed by Contracted Labor (Only permitted if the public body does not employ a person capable of redacting the records as determined by the FOIA Coordinator):</p> <p>Name of person or firm contracted: _____</p> <p>Enter the hourly rate charged by the contractor (may not exceed six (6) times the State minimum wage (i.e. \$8.15x6=\$48.90)</p> <p style="text-align: right;">\$ _____ per hour</p> <p>Divide the hourly rate by four (4) to determine the charge per fifteen (15) minute increment</p> $\text{\$ } \underline{\hspace{2cm}} / 4 = \text{\$ } \underline{\hspace{2cm}}$	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> $\underline{\hspace{2cm}} \times \text{\$ } \underline{\hspace{2cm}} = \text{\$ } \underline{\hspace{2cm}}$	\\$ <u> </u>
3. Non-Paper Physical Media	<p>Actual and most reasonably economical cost of:</p> <p>Flash Drives \$ _____ x number used _____ = \$ _____ Computer</p> <p>Discs \$ _____ x number used _____ = \$ _____</p> <p>Other Media \$ _____ x number used _____ = \$ _____</p>	\\$ <u> </u>

4. Paper Copies	<p>Actual total incremental cost of duplication (not including labor) up to a <u>maximum of 10 cents per page</u>: _____</p> <p>Letter paper (8 1/2" x 11") number of sheets ____ x \$0.____ = \$_____</p>	
	<p>Legal paper (8 1/2" x 14") number of sheets ____ x \$0.____ = \$_____</p> <p>Actual cost of other <u>types of paper</u>: _____</p> <p>Type of Paper: number of sheets ____ x \$____ = \$_____</p> <p>Type of Paper: number of sheets ____ x \$_____ = \$_____</p> <p>(NOTE: Must print double-sided if available and costs less.)</p>	<p>\$_____</p>
5. Labor Cost – Duplication Copying, and transferring records to non-paper physical media	<p>Enter the hourly wage of lowest paid employee capable of performing the duplication, copying, or transferring digital records to non-paper physical media \$_____ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost) _____ %</p> <p>Multiply the hourly wage times the fringe benefit multiplier \$_____ x 1.____ = \$_____</p> <p>If stipulated by the requestor, add the <u>hourly overtime wage</u> increment (but <u>do not include</u> in the calculation of fringe benefit costs) \$_____ + _____ = \$_____</p> <p>Divide the resulting hourly wage by _____ to determine the charge per () minute increment \$_____ / 4 = \$_____</p> <p>(NOTE: May use any time increment for this category)</p>	
	<p>Number of _____ minute increments (partial time increments must be rounded down) multiplied by the permitted rate _____ x \$_____ = \$_____</p>	<p>\$_____</p>

6. Mailing	Actual cost of mailing records in a reasonable and economical manner: Cost of mailing: \$_____	
	Cost of least expensive form of postal delivery confirmation: \$_____	
	Cost of expedited shipping or insurance only if specifically stipulated by the requestor:	
		\$_____
		Subtotal \$_____
Waivers and Reductions	Subtract any Fee Waiver or Reduction: \$20.00 for indigency or nonprofit organization as further described in the Public Body's procedures and guidelines. Any amount determined by the Public Body due to the search and furnishing of the Public Record determined to be in the public interest. \$_____	
	The reduction amount due to the late response of the Public Body. 5% of fee x _____ days late = _____ % reduction (maximum reduction is 50%)	-\$_____
Deposit	Subtract any good-faith deposit received: \$_____	-\$_____
		Total Due \$_____

*Note: Labor costs for search, location, examination and redaction (categories 1 and 2 on the itemization form) may not be charged unless the failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

The Court of Appeals has interpreted this provision to require that the determination be made relative to the usual or typical costs incurred by the public body in responding to FOIA requests. The key factor in determining whether the costs are "unreasonably high" is the extent to which the particular request differs from the usual request. *Bloch v Davison Cmty Schools*, (Mich.App. Apr. 26, 2011), 2011 WL 1564645.

ATTACHMENT K

AFFIDAVIT OF INDIGENCY FOR COPIES OF PUBLIC RECORDS UNDER THE FREEDOM OF INFORMATION ACT

State of Michigan)
County of Midland)

The undersigned requests a copy of the following record(s) from the _____ Office of Midland County, Michigan:

Pursuant to the Freedom of Information Act, the undersigned being first duly sworn deposes and says: (Fill out either A or B)

- A. () On this date I am indigent and receiving public assistance as referred to in the Freedom of Information Act.
B. () I am not receiving public assistance as referred to in the Freedom of Information Act, but I am indigent and unable to pay the cost of the copies of records which I have requested and in support of my assertion I show and swear the following facts are true:
1. That I have no funds with which to pay for the copies except \$ _____.
2. That I own no property, real or personal, which could be sold to raise funds with which to pay for the copies, except _____.
3. That I do (), do not (), have a spouse who is dependent upon me for support.
4. That I do (), do not (), have minor children dependent upon me for their support. (Insert number _____)
5. That I owe child support payments in the amount of \$ _____ per week to the Friend of the Court and an arrearage of \$ _____.
6. All of my assets do (), do not (), exceed my liabilities. If liabilities exceed assets, they do so by \$ _____.

Date: _____ Signed: _____

Subscribed and sworn to before me this ____ day of _____, ____.

Notary Public - _____ County, Michigan
Acting in Midland County, Michigan
My Commission Expires: _____

**MIDLAND COUNTY
FREEDOM OF INFORMATION ACT (FOIA)**

III.

SUMMARY OF FOIA PROCEDURES AND GUIDELINES

ATTACHMENT L

COUNTY OF MIDLAND

SUMMARY OF FOIA PROCEDURES AND GUIDELINES

Below is a Summary of the County's FOIA Procedures and Guidelines applicable to the general public under the Michigan Freedom of Information Act; (Act 442, Public Acts of 1976, as amended) (FOIA or the Act)

1. Making a FOIA request to the County of Midland.

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the County of Midland must be submitted 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.http://co.midland.mi.us/](http://www.co.midland.mi.us/)
- Written requests can be made in person by delivery to any County office in person or by mail.
- 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 [DEPARTMENT]@co.midland.mi.us
- 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. The County's response to a 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 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. Fee deposit requirements.

- o 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.
- o 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 written request's increased fee deposit.
- o 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. Calculation of FOIA fees by County.

- o The Michigan FOIA statute permits the County to assess and collect a fee for six designated processing components. The County charges 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.
- o 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.
 - If the County does not employ a person capable of separating exempt from not-exempt information, contracted labor may be used to accomplish this task. If so, the rate for labor will not be more than six times the state minimum hourly wage rate determined under Public Act 138, Michigan Public Acts of 2014.
- o 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.
- o Paper Copies
- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets will reflect the actual cost of reproduction.
 - The County may provide records using double-sided printing, if cost-saving and available.
- o 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. Qualification for a reduction of the processing fees.

- o The County may waive or reduce the fee associated with a request when County determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public.
- o 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.
- o 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.
- o 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.
- o The County will waive the fee for an 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. Challenging the denial of a public record or an excessive fee.

o 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 Chairperson. 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 Chairperson 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 Chairperson, you may file a civil action in Midland County 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 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 \$1000.00

o 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 Office of the Chairperson of the Board of Commissioners. 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, which is considered to be the first regularly scheduled meeting of the Board of Commissioners following receipt of the submission of the written appeal, the Chairperson 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 Chairperson will respond to the written appeal.

Within 45 days after receiving notice of the Chairperson's determination of the processing fee appeal, you may commence a civil action in Midland 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 \$500.00.

Summary, not the ultimate source for FOIA rights and responsibilities.

This is only a summary of the County of Midland's FOIA Procedures and Guidelines. For more details and information, copies of the County of Midland's FOIA Procedures and Guidelines are available at no charge at any County office and on the County's website, [www.http://co.midland.mi.us/](http://co.midland.mi.us/). In the event of any inconsistency between this Summary, County Policy and the Act, the terms of the Act shall prevail.