

# MISSAUKEE CONSERVATION DISTRICT FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

## **Purpose**

The Michigan Freedom of Information Act, Public Act 442 of 1976 ("FOIA"), mandates disclosure of public records. To fulfill this mandate, the Conservation District Board of Directors has established this policy and procedure for handling FOIA requests to ensure that members of the public receive non-exempt District public records that they may request, while not unduly burdening the District.

The Freedom of Information Act was amended significantly by Public Act 563 of 2014, effective July 1, 2015 ("Act 563"), primarily with respect to the methodology for calculating the charges and fees which may be charged pursuant to FOIA, and this replacement policy has been adopted to reflect those changes.

## **FOIA Coordinator**

In accordance with Section 6 of the Freedom of Information Act (FOIA), MCL 15.236, the District Board of Directors has designated the District Manager as the FOIA Coordinator for the District.

## **FOIA Requests**

FOIA requests to the District may be submitted by any of the following means:

Mail: Missaukee Conservation District  
6180 W. Sanborn Road, Suite 3  
Lake City, MI 49651

E-mail: [sherry.blaszak@macd.org](mailto:sherry.blaszak@macd.org)

Fax: 231-839-5411

Verbal: Verbal requests will be accepted for information that is available on the District's public web site. The response to a verbal request will be informing the requestor of the pertinent web site address.

A "FOIA Request for Public Records" form (see Appendix) can be provided by the District to a requestor and be used to submit a FOIA request.

Requests should sufficiently describe the public record by name, time frame and other relevant information to enable the FOIA Coordinator to identify and locate the record.

Requests should also include the name of the requestor, phone number, mailing address and e-mail address, if available. Additional identifying information may be requested in order to complete a search for the requested records.

## ***Requests for Public Records***

All requests for public records (either to receive copies of such records or to inspect such records) made pursuant to FOIA shall be made in writing via the methods and format described above. All written requests for records pursuant to FOIA shall be processed by the FOIA Coordinator or designee.

## ***Non-Paper Media***

A requester may ask that public records be provided on non-paper physical media, electronically mailed, or otherwise electronically provided in lieu of paper copies. The District shall not be required to comply with such a request if it lacks the capability to provide the requested records in non-paper media form in the particular instance, and the requestor shall be so informed.

## ***Requests to Review Records***

If a request is received to review records, arrangements shall be made available to inspect records during the District's normal business hours and when the records can reasonably be made available. The person who wishes to inspect public records shall submit a request in writing as described above prior to the District allowing the inspection of the records. A District staff member shall be present at all times during the inspection of District records if any original records are involved.

## ***Requests Made by E-mail or Fax***

These requests shall be deemed received by the FOIA Coordinator one business day after the date the electronic transmission is made and shall be handled in the same manner as a written request noted above. If the request is submitted by e-mail and the e-mail request is held or quarantined in the District's spam or junk e-mail folder (or other similar virus-protection software), the request shall be deemed received one business day after the District first became aware of the request.

Any employee of the District who receives a written request for a public record must immediately forward that request to the FOIA Coordinator. If a District employee receives an electronic request for a public record that is delivered to a spam or junk folder, the employee must record the date and time the electronic request was delivered to the spam or junk-mail folder and date and time the employee first became aware of the electronic request. The employee must forward those dates and times to the FOIA Coordinator with the written request.

The FOIA Coordinator shall maintain a written log of when the request is delivered to the spam or junk e-mail folder and when the District becomes aware of the request in the folder.

### ***Informal Request***

The FOIA Coordinator or District staff may provide limited, readily identifiable public records without a written request in the case of easily fulfilled, non-repetitive requests for information. Examples of documents which may be provided without the necessity of a written FOIA request include, but are not limited to:

- a. A single set of meeting minutes for a meeting held within the prior 12 months which is requested by specific date.
- b. Resolutions made by the District Board which are identified by specific name or number.
- c. Similar public records which can be readily provided.

District staff have the discretion to require a formal FOIA request.

Verbal requests are not considered made under or subject to FOIA. Requesters have the option to make a written FOIA request, if so desired, in accordance with these Procedures and Guidelines.

### **Processing FOIA Requests**

The FOIA Coordinator shall maintain a log of all written requests received, showing the nature and date of the request, determination of disposition, date of disposition and manner of final response to the FOIA request. Forms for utilization of FOIA procedures under these Procedures and Guidelines are available from the FOIA Coordinator, or on the District web site.

### ***Time for Response***

The FOIA Coordinator shall, no more than five (5) business days after the request has been made, unless a single extension of not more than ten (10) business days has been issued, or where the time limits have been agreed to upon in writing by the requesting person, provide one of the following responses:

Grant the Request. If the requested public records are not exempt from disclosure, the FOIA Coordinator shall submit copies of them to the requestor, together with a copy of the District's "Request Response Form" (see Appendix) and a copy of the requestor's FOIA request.

Deny the Request. The FOIA Coordinator shall sign and send a "Notice of Denial of FOIA Request" form (see Appendix) to the requestor, stating the reasons for denial, including an explanation of the requestor's right to seek a non-mandatory appeal of the FOIA Coordinator's decision to the District Board of Directors. Failure to timely respond to the request constitutes a denial. Denial may be made because, among other reasons, the record does not exist, it cannot be sufficiently identified from the description contained in the request, or the record is exempt from disclosure.

Grant the Request in Part and Deny the Request in Part. Public records which are partially exempt and partially subject to disclosure shall be separated or redacted, and the non-exempt material will be offered for copying or inspection. A general description of the separated or redacted information shall be provided to the requestor, unless doing so would reveal the contents of the exempt information. The FOIA Coordinator shall sign and send a "Notice of Denial of FOIA Request" form (see Appendix) to the requestor, stating the reasons why access to some of the requested records is denied, including an explanation of the requestor's right to seek a non-mandatory appeal of the FOIA Coordinator's decision to the District Board of Directors.

Extension. The FOIA Coordinator may issue a "Notice to Extend Response Time for FOIA Request" form (see Appendix) for an extension of up to ten (10) business days. The notice shall state the reason for the extension and include an estimate as to when the FOIA Coordinator expects to respond to the FOIA request.

### **General Requirements for FOIA Response**

FOIA requests shall be fulfilled in one or more of the following ways, depending on the request:

- a. If inspection of records is requested, the District will provide a reasonable opportunity and facilities for inspection of the public records by the requesting person.
- b. Original records shall not be marked, defaced, destroyed, or otherwise altered. A person examining public records may take notes and if so, shall bring to the examination only an erasable pencil with which to make notes. No pens or

indelible writing instruments are allowed. No notes, marks or writing of any kind shall be made on the records themselves.

- c. A District staff member shall be present at all times during the inspection of District records if any original records are involved, to protect the records from loss, unauthorized alteration, mutilation, or destruction. In order to defray the District's cost of this monitoring service, a fee shall be paid to the District for the personnel time involved, as provided for in these Procedures and Guidelines.
- d. Original records shall not be removed from the location provided for inspection. Original documents may be removed from and replaced in District files only by authorized District personnel.
- e. A requesting person may not remove records or files from the area provided for inspection. Copying of records for the requesting person shall be conducted only by authorized District personnel.
- f. In some special situations in which inspection of records is requested, the FOIA Coordinator may determine, on a case-by-case basis, that only a copy of the record may be inspected. Situations where original records are likely to require copying prior to inspection include the following:
  - (1) The records include exempt information that must be redacted.
  - (2) The records are old or delicate, or contain information that could not easily be replicated.
  - (3) The records are in digital format or are part of a database not available for public inspection.
- g. A person requesting to inspect District records must make an appointment with the FOIA Coordinator. Appointments will be scheduled during the District's regular business hours. The date and time of appointments for inspection will be determined by the FOIA Coordinator.
- h. The FOIA Coordinator will make reasonable efforts to allow a requesting person to inspect records for up to four hours per appointment; provided, however, that inspections will be cut short, postponed or rescheduled when necessary to avoid unreasonable interference with District staff's duties and responsibilities.
- i. Provide copies of records if so requested.
- j. The FOIA does not require the District to make a compilation, summary or report of the requested public records or other requested information.

### **Assessment of Fees for FOIA Request**

The FOIA permits the District to charge the requesting person a fee for labor costs, mailing and other costs associated with responding to the request for public records, if the failure to charge a fee would result in unreasonably high costs to the District because of the nature of the request, and the District specifically identifies the nature of the unreasonably high costs. (MCL 15.243(1) and (3)). It is hereby determined that devoting more than fifteen minutes to responding to a FOIA request will result in unreasonably high costs to the District, unless the cost of such response is borne by the requesting person.

The following fee guidelines for calculating labor and material costs incurred in processing FOIA requests are established pursuant to MCL 15.234(3). The fees will be calculated on a "Fee Calculation Form" (see Appendix), and a copy of the form will be provided to the requestor before further processing of the request is completed.

1. Fees will be uniform and not dependent upon the identity of the requesting person.
2. Fees will be itemized using a fee calculation form and may include:
  - a. Labor cost to Search, Locate and Examine Records. The District may charge for the labor costs directly associated with searching for, locating, and examining public records in conjunction with receiving and fulfilling a FOIA request.
  - b. Labor cost to Review, Separate and Delete Exempt from Non-Exempt Records. The District may charge for the labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt material from non-exempt material. The review and separation of exempt from non-exempt material may be conducted by a District official or employee or, if necessary, outside legal counsel.
  - c. For services performed by an outside contractor or legal counsel. As determined by the FOIA Coordinator on a case-by-case basis, the District may charge the contractor's or legal counsel's time, provided, however, that such time to be charged shall not exceed an amount equal to six (6) times the then-current State minimum hourly wage rate determined under Section 4 of the Workforce Opportunity Wage Act, Act 138 of the Public Acts of Michigan of 2014 ("Act 138"), as that rate may change from time to time. As of the date of adoption of these Procedures and Guidelines, that wage rate is \$8.15 per hour. If the rate increases under Act 138, the rate charged under these Procedures and Guidelines shall automatically change without action by the District Board of Directors or amendment of these Procedures and Guidelines. In charging such time for an outside contractor or legal counsel, the District shall provide notice to the requesting person of the name of the contracted person or firm in the District's detailed itemization of costs required by the Act. The charges for such services will be billed in increments of fifteen (15) minutes or more and all partial time increments will be rounded downward.
  - d. Labor cost of Duplication of Records. The District may charge for the labor costs directly associated with duplication of records, including making paper copies, making digital copies, or transferring digital public records to be given to the requesting person on non-paper physical media or through the Internet or other electronic means as stipulated by the requesting person.
  - e. Copying Charges. Duplication of public records and documents will be at the rate of \$.05 per page for black and \$.10 per page for color copies.

- f. Cost of Non-paper Media. The District may charge for the cost of CDs, DVDs or other electronic media materials needed to fulfill a request.
- g. Cost of Mailing. The District will charge the actual cost of postage for sending records to the requesting person.
- h. Labor cost of Monitoring Inspection of Records. The District may charge for time to monitor a requester inspecting original records. Note: Section 3(3) of the FOIA, MCL 15.233(3), provides, in pertinent part, that “[a] public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction.”

- 3. Calculation of Labor Costs. The District will calculate labor costs using the hourly wage of the District’s lowest paid employee capable of performing the required task, whether or not they are available or actually perform the labor. Such labor costs shall be estimated and charged in increments of fifteen (15) minutes with all partial increments rounded down. The hourly wage will be based on the District’s payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of the benefits.
- 4. No District employee shall be required to work overtime or include overtime wages in the labor costs described in these Procedures and Guidelines.
- 5. If a requester submits an affidavit of indigence, the first \$20.00 of a fee will be waived (up to two waivers a calendar year). A requesting person must include a statement that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration. Other than \$20.00 for cases of indigence, no District employee shall waive a fee or any part of a fee without authorization from the FOIA Coordinator.
- 6. If a statute authorizes the sale or production of public records to the public for a specified fee or if a fee for production of public records is otherwise set by statute, the District will charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.

***Deposit Requirements***

If the District estimates a fee greater than \$50.00 to process a FOIA request, the District will require a good-faith deposit from the requester before processing the request. The deposit shall not exceed one-half (½) of the total estimated fee. Any written notice containing a request for a deposit shall also contain a best efforts estimate by the District regarding the time frame after a deposit is received, that it will take the District to provide the public records to the requester. The time frame estimate is not binding upon the District, but the District shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on the State’s public policy under Section 1 of the FOIA, MCL 15.231 and the nature of the request in the particular instance.

**Record Retention**

The FOIA Coordinator shall maintain all FOIA requests on file for at least one year.

**Exemptions to FOIA Request**

The FOIA coordinator may exempt from disclosure any records identified as exempt from disclosure in Section 13 of the FOIA. The FOIA coordinator shall exempt from disclosure:

- a. That portion of any public record disclosing a person’s social security number.
- b. Information protected under the Family Educational Rights and Privacy Act of 1974.
- c. Minutes of any closed session meeting, disclosure of which is prohibited by the Open Meetings Act.
- d. Any other public record, information or material, the disclosure of which is prohibited by law.

**Appeals**

***Appeal of Denial of Request***

If a person’s request for a public record is denied, in whole or in part, the person may file a written appeal of the decision in accordance with the following:

The appeal must be submitted in writing to the District Board of Directors, to the attention of the Chairman of the Board. A “FOIA Appeal Form-To Appeal A Denial of Records” form (see Appendix) can be provided by the District to a requestor and be used to submit an appeal.

The written appeal must specifically state the word “appeal” and identify the reason or reasons advanced for the reversal or modification of the denial.

If a written appeal is received by the Chairman of the Board of Directors consistent with these Procedures and Guidelines, and the Act, the Board shall either:

- a. place the appeal on the agenda for the next regularly scheduled meeting, to be decided within ten (10) business days thereafter; or
- b. schedule a special meeting to consider the appeal, which special meeting should be held no later than ten (10) business days following the next regularly scheduled meeting.

The District Board of Directors may deliberate and shall take one of the following actions in response to the filing of an appeal:

- a. Reverse the denial.
- b. Affirm the denial and Issue a written notice to the requesting person.
- c. Reverse the denial in part and issue a written notice to the requesting person affirming the denial in part.
- d. Under unusual circumstances, issue a notice extending not more than the (10) business days the period during which the Board shall respond to the written appeal. Only one written notice extending the response time is allowed.

The Board's decision on the appeal will be recorded on a "Denial of Request or Fee Appeal Review Response Form" (see Appendix), with a copy provided to the requestor.

### **Fee Appeal**

A requesting person may appeal the amount of a fee or deposit if that fee or deposit exceeds the amount permitted under these Procedures and Guidelines and the FOIA. An appeal on the amount of the fee may be made to the District Board of Directors in accordance with the provisions of *Appeal of Denial of Request*, above.

A "FOIA Appeal Form-To Appeal An Excess Fee" form (see Appendix) can be provided by the District to a requestor and be used to submit an appeal.

In the fee appeal, the requesting person must specifically include the word "appeal" and identify how the required fee exceeds the amount permitted under these Procedures and Guidelines or the Act.

Notwithstanding the appeal review by the Board noted above, and in accordance with FOIA, a requesting person may commence a civil action in the Circuit Court for a fee reduction; provided, however, that such appeal must be filed within forty-five (45) days after receiving the notice of the required fee or a determination of an appeal to the District Board of Directors. If the requesting person files a fee appeal with the Circuit Court, the District will not complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

Within ten (10) business days after receiving a written fee appeal, the District Board of Directors shall do one 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 of FOIA and these Procedures and Guidelines that supports the remaining fee. The determination shall include a certification from the Chairman of the Board of Directors, on behalf of the District Board, that the statements in the determination are accurate and that the reduced fee amount complies with the District's Procedures and Guidelines, and Section 4 of the Act.
- c. Uphold the fee and issue a written determination to the requesting person indicating the specific basis under Section 4 of the Act that supports the required fee. The determination shall include a certification from the Chairman of the Board of Directors, on behalf of the District Board, that the statements in the determination are accurate and that the fee amount complies with the District's Procedures and Guidelines, and Section 4 of the Act.
- d. Issue a notice extending for not more than ten (10) business days the period during which the District Board of Directors must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. Only one written notice extending the response time is allowed.

In accordance with FOIA, the District Board of Directors is not considered to have received a written fee appeal until the first regularly scheduled meeting of the Board following submission of the written appeal.

In accordance with Section 4(13) of FOIA, a deposit required to be paid by the District is considered a "fee."

The Board's decision on the appeal will be recorded on a "Denial of Request or Fee Appeal Review Response Form" (see Appendix), with a copy provided to the requestor.

### **Civil Action**

An appeal of a determination by the FOIA Coordinator or decision of the District Board of Directors may be taken to the Circuit Court.

### **Amendments to Procedures**

The District Board of Directors may amend or supplement this policy, from time to time, in the Board's sole discretion.

**Forms**

The District FOIA Coordinator and staff may prepare appropriate forms for FOIA requests and responses, reflecting the amendments to FOIA made by Act 563, to assist and standardize FOIA requests and responses.

**Availability of Procedures and Guideline Summary**

A copy of these Procedures and Guidelines, and a summary of the same, shall be available at the District office and shall be posted on the District's website at [www.missaukee.org](http://www.missaukee.org), in accordance with the FOIA. See "Public Summary FOIA Procedures and Guidelines" in the Appendix.

**Effective Date**

These Freedom of Information Act Procedures and Guidelines became effective on December 15, 2015.

This policy was adopted: December 15, 2015.

## **APPENDIX**

This Appendix includes the following forms related to the District's FOIA Policy:

- FOIA Request for Public Records
- Freedom of Information Act Request Response Form
- Notice of Denial of FOIA Request
- Notice to Extend Response Time for FOIA Request
- Freedom of Information Act Fee Calculation Form
- FOIA Appeal Form – To Appeal a Denial of Records
- FOIA Appeal Form – To Appeal An Excess Fee
- Freedom of Information Act, District Board of Directors Denial of Request or Fee Appeal Review Response Form
- Public Summary, Freedom of Information Act Procedures and Guidelines

**MISSAUKEE CONSERVATION DISTRICT**

6180 W. Sanborn Road, Suite 3, Lake City, MI 49651 Phone: 231.839.7193

**FOIA REQUEST FOR PUBLIC RECORDS**

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

**OFFICE USE ONLY**

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_

Received via:  E-mail  Fax  Other Electronic Method Date discovered in junk/spam folder: \_\_\_\_\_

*(Please Print or Type)*

Name		Phone
Firm/Organization		Fax
Street		E-mail
City	State	Zip

**Request for:**  Copy  Certified Copy  Record Inspection  Subscription to record issued on regular basis

**Delivery Method:**  Will pick up  Mail to address above  E-mail to address above

Deliver on digital media provided by the District: \_\_\_\_\_ *(specify type)*

*Note: The District is not required to provide records in a digital format or on digital media if the District does not already have the technological capability to do so. There may be a charge for the media.*

**Describe the public record(s) you are requesting as specifically as possible.** *(You may use this form or attach additional sheets. Provide as much information as possible.)*


**Consent to Non-Statutory Extension of District's Response Time**

I have requested a copy of records or a subscription to records or the opportunity to inspect records, pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, *et seq.* I understand that the District must respond to this request within five (5) business days after receiving it, and that response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the District's response time for this request until: \_\_\_\_\_ *(month, day, year).*

**Requestor's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

*(Complete both sides)*



**Records Located on Website**

If the District 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 District 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 District 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 District 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 District must provide the public records in the specified format (if the District 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 District Website**

I hereby stipulate that, even if some or all of the records are located on the District website, I am requesting that the District 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**

**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:

**Requestor's Signature**

**Date**

**Request for Discount: Nonprofit Organization**

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act, if the request meets **ALL** of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
- (ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
- (iii) Is accompanied by documentation of its designation by the state if requested by the District.

**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:

**Requestor's Signature**

**Date**

**FREEDOM OF INFORMATION ACT  
 REQUEST RESPONSE FORM**

<b>REQUEST #:</b>	<b>REQUESTOR NAME:</b>
<b>DATE RECEIVED:</b>	<b>DATE RESPONSE REQUIRED:</b>
<b>DATE REQUEST COMPLETED:</b>	<b>COMPLETED BY:</b>
<b>DISTRICT RESPONSE</b>	
___ Request Granted. Records requested are attached. _____ _____ _____ _____ ___ Record Inspection _____ (date) ___ Request Denied (see Notice of Denial form attached for explanation) ___ Request Granted in Part (see Notice of Denial form attached for explanation) ___ Extension Issued to _____ (date) (see Notice to Extend Response Time form attached for explanation)	
<b>DELIVERY METHOD FOR RECORDS PROVIDED TO REQUESTOR</b>	
___ Pick up ___ Mail ___ E-mail ___ Digital Media ___ Other, specify: _____	
<b>DATE FEE CALCULATION FORM PROVIDED TO REQUESTOR: _____</b>	
<b>FEE DEPOSIT RECEIVED</b>	<b>BALANCE OF FEES DUE RECEIVED</b>
Date: _____ Amount \$: _____	Date: _____ Amount \$: _____
	Paid in full? ___ Yes ___ No
<b>SUMMARY OR APPEAL(S)</b>	
<b>APPEAL OF REQUEST DENIAL</b>	<b>APPEAL OF EXCESS FEE</b>
<b>DATE APPEAL RECEIVED:</b>	<b>DATE APPEAL RECEIVED:</b>
<b>DATE OF BOARD REVIEW:</b>	<b>DATE OF BOARD REVIEW:</b>
<b>BOARD ACTION</b>	<b>BOARD ACTION</b>
___ Reverse denial ___ Affirm denial ___ Reverse in part, affirm in part ___ Issue extension to: _____ (date) Date provided to Requestor: _____	___ Waive fee ___ Reduce fee ___ Uphold fee ___ Issue extension to: _____ (date) Date provided to Requestor: _____
<b>FOIA Coordinator Signature:</b>	<b>Date:</b>

**MISSAUKEE CONSERVATION DISTRICT**

6180 W. Sanborn Road, Suite 3, Lake City, MI 49651 Phone: 231.839.7193

**NOTICE TO DENIAL OF FOIA REQUEST**

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

**OFFICE USE ONLY**

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_

Received via: \_\_\_ E-mail \_\_\_ Fax \_\_\_ Other Electronic Method Date discovered in junk/spam folder: \_\_\_\_\_

*(Please Print or Type)*

Name	Phone
Firm/Organization	Fax
Street	E-mail
City	State Zip

**Request for:** \_\_\_ Copy \_\_\_ Certified Copy \_\_\_ Record Inspection \_\_\_ Subscription to record issued on regular basis

**Delivery Method:** \_\_\_ Will pick up \_\_\_ Mail to address above \_\_\_ E-mail to address above

\_\_\_ Deliver on digital media provided by the District: \_\_\_\_\_ *(specify type)*

**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 District. 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: \_\_\_\_\_  
This item does not exist under the name provided in your request or by another name reasonably known to the District. If you believe this record does exist, provide a description that will enable us to locate the record: \_\_\_\_\_

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 District Board of Directors 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 District 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 District 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

**MISSAUKEE CONSERVATION DISTRICT**

6180 W. Sanborn Road, Suite 3, Lake City, MI 49651 Phone: 231.839.7193

**NOTICE TO EXTEND RESPONSE TIME FOR FOIA REQUEST**

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

**OFFICE USE ONLY**

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_

Received via: \_\_\_ E-mail \_\_\_ Fax \_\_\_ Other Electronic Method Date discovered in junk/spam folder: \_\_\_\_\_

*(Please Print or Type)*

Name	Phone	
Firm/Organization	Fax	
Street	E-mail	
City	State	Zip

**Request for:** \_\_\_ Copy \_\_\_ Certified Copy \_\_\_ Record Inspection \_\_\_ Subscription to record issued on regular basis

**Delivery Method:** \_\_\_ Will pick up \_\_\_ Mail to address above \_\_\_ E-mail to address above

\_\_\_ Deliver on digital media provided by the District: \_\_\_\_\_ *(specify type)*

**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 the FOIA Coordinator at the Conservation District office.

**Estimated Time Frame to Provide Records:** \_\_\_\_\_ *(days or date)*

The time frame estimate is nonbinding upon the District, but the District 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 District 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 District must:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2.** The District needs to collect the requested public records from numerous field offices, facilities, or other establishments that are located apart from the District office. Specifically, the District must coordinate documents from the following locations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3.** Other (describe): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Signature of FOIA Coordinator:

Date:

**MISSAUKEE CONSERVATION DISTRICT**

6180 W. Sanborn Road, Suite 3, Lake City, MI 49651 Phone: 231.839.7193

**FREEDOM OF INFORMATION ACT  
FEE CALCULATION FORM**

**REQUEST #** 1-16 **REQUESTOR NAME:** American Transparency **DATE:** 6-14-16

ESTIMATED COSTS		TOTAL	ACTUAL COSTS	TOTAL
Labor: Search, Locate, Examine*	# of Hours <u>2</u> X Wage Rate \$ <u>14.19</u>	\$28.38	# of Hours <u>    </u> X Wage Rate \$ <u>    </u>	\$
Labor: Review, Separate, Delete*	# of Hours <u>.5</u> X Wage Rate \$ <u>14.19</u>	\$7.10	# of Hours <u>    </u> X Wage Rate \$ <u>    </u>	\$
Labor (Contractor)** Name _____	# of Hours <u>    </u> X Wage Rate \$ <u>    </u>	\$	# of Hours <u>    </u> X Wage Rate \$ <u>    </u>	\$
Labor: Duplicating*	# of Hours <u>    </u> X Wage Rate \$ <u>    </u>	\$	# of Hours <u>    </u> X Wage Rate \$ <u>    </u>	\$
Paper Copies	Black: # of Pages <u>    </u> X \$.05/page	\$ <u>    </u>	Black: # of Pages <u>    </u> X \$.05/page	\$ <u>    </u>
	Color: # of Pages <u>    </u> X \$.10/page	\$ <u>    </u>	Color: # of Pages <u>    </u> X \$.10/page	\$ <u>    </u>
Non-paper Physical Media	CD: (#) <u>    </u> X \$ <u>    </u>	\$ <u>    </u>	CD: (#) <u>    </u> X \$ <u>    </u>	\$ <u>    </u>
	DVD: (#) <u>    </u> X \$ <u>    </u>	\$ <u>    </u>	DVD: (#) <u>    </u> X \$ <u>    </u>	\$ <u>    </u>
Mailing		\$	Mailing	\$
Labor: Monitoring of Records Inspection*	# of Hours <u>    </u> X Wage Rate \$ <u>    </u>	\$	# of Hours <u>    </u> X Wage Rate \$ <u>    </u>	\$
Additional Fees:			Additional Fees (listed on left)	
<u>50% Labor costs for fringe benefits, \$28.38 + \$7.10 = \$35.48 x .50 = \$17.74</u>		\$ <u>17.74</u>		\$ <u>    </u>
_____		\$ <u>    </u>		\$ <u>    </u>
_____		\$ <u>    </u>		\$ <u>    </u>
<b>ESTIMATE SUB-TOTAL:</b>		\$70.96	<b>SUB-TOTAL:</b> \$	
Indigent Waiver (\$20)***		\$	Indigent Waiver (\$20)***	\$
<b>ESTIMATE TOTAL:</b>		\$70.96	<b>TOTAL:</b> \$	
50% Deposit****		\$35.48	Less Deposit:	\$
			<b>BALANCE DUE:</b> \$	

Part or all of the documents requested are available online at: \_\_\_\_\_

Cost to provide the online documents in paper form is \$ \_\_\_\_\_. If you prefer to have these documents mailed, please forward payment and a copy of this form to the FOIA Coordinator for processing. This will result in a new request.

Return a copy of this fee calculation with your payment to ensure proper credit. Make check or money order payable to:  
MISSAUKEE CONSERVATION DISTRICT

\* Cost includes hourly wage and up to 50% of fringe benefits. If additional costs need to be included for a different wage, this will be provided on an additional document.

\*\* Actual cost does not exceed 6X the state minimum hourly wage.

\*\*\* Must provide proof of indigence. Limit of two waivers per year.

\*\*\*\* Once payment is received, the District will process your request and will take approximately 5 days to fulfill the request.

**MISSAUKEE CONSERVATION DISTRICT**

6180 W. Sanborn Road, Suite 3, Lake City, MI 49651 Phone: 231.839.7193

**FOIA APPEAL FORM – TO APPEAL A DENIAL OF RECORDS**

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

**OFFICE USE ONLY**

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_

Received via: \_\_\_ E-mail \_\_\_ Fax \_\_\_ Other Electronic Method Date discovered in junk/spam folder: \_\_\_\_\_

*(Please Print or Type)*

Name	Phone
Firm/Organization	Fax
Street	E-mail
City	State Zip

**Request for:** \_\_\_ Copy \_\_\_ Certified Copy \_\_\_ Record Inspection \_\_\_ Subscription to record issued on regular basis

**Delivery Method:** \_\_\_ Will pick up \_\_\_ Mail to address above \_\_\_ E-mail to address above

\_\_\_ Deliver on digital media provided by the District: \_\_\_\_\_ *(specify type)*

**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:** \_\_\_\_\_

**District Response:**

The District must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

**District 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 the FOIA Coordinator at the Conservation District office.

**District Determination:**

Denial Reversed  Denial Upheld  Denial Reversed in Part and Upheld in Part

The following previously denied records will be released: \_\_\_\_\_ *(month, day, year)*

**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 District Board of Directors 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 District 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.

(8) 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.

(9) 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.

(10) 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).

(11) 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 District 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.

(12) 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.

(13) 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).

(14) 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



**MISSAUKEE CONSERVATION DISTRICT**

6180 W. Sanborn Road, Suite 3, Lake City, MI 49651 Phone: 231.839.7193

**FOIA APPEAL FORM – TO APPEAL AN EXCESS FEE**

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

**OFFICE USE ONLY**

Request No.: \_\_\_\_\_ Date Received: \_\_\_\_\_ Date delivered to junk/spam folder: \_\_\_\_\_

Received via: \_\_\_ E-mail \_\_\_ Fax \_\_\_ Other Electronic Method Date discovered in junk/spam folder: \_\_\_\_\_

*(Please Print or Type)*

Name	Phone
Firm/Organization	Fax
Street	E-mail
City	State Zip

**Request for:** \_\_\_ Copy \_\_\_ Certified Copy \_\_\_ Record Inspection \_\_\_ Subscription to record issued on regular basis

**Delivery Method:** \_\_\_ Will pick up \_\_\_ Mail to address above \_\_\_ E-mail to address above

\_\_\_ Deliver on digital media provided by the District: \_\_\_\_\_ *(specify type)*

**Record(s) You Requested:** (Listed here or see attached copy of original request) \_\_\_\_\_

**Reason(s) for Appeal:**

The appeal must identify how the required fee(s) exceed the amount permitted. You may use this form or attach additional sheets:

**Requestor's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**District Response:**

The District must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

**District 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 the FOIA Coordinator at the Conservation District office.

**District Determination:**

Fee Waived  Fee Reduced  Fee Upheld

Written basis for District determination: \_\_\_\_\_

**Notice of Requestor's Right to Seek Judicial Review**

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the District Board of Directors 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 District 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

#### 15.240a.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 District 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

**FREEDOM OF INFORMATION ACT  
DISTRICT BOARD OF DIRECTORS  
DENIAL OF REQUEST OR FEE APPEAL REVIEW RESPONSE FORM**

<b>REQUEST #:</b>	<b>REQUESTOR NAME:</b>
-------------------	------------------------

<b>APPEAL TYPE:</b> <input type="checkbox"/> Denial of Request by FOIA Coordinator <input type="checkbox"/> Excess Fee
---

<b>DATE RECEIVED:</b>	<b>DATE RESPONSE REQUIRED:</b>
-----------------------	--------------------------------

<b>BOARD ACTION ON DENIAL OF REQUEST APPEAL:</b>
<input type="checkbox"/> Denial reversed. <input type="checkbox"/> Denial affirmed. Explanation provided below. <input type="checkbox"/> Denial reversed in part. Explanation provided below. <input type="checkbox"/> Extend Board review period by <input type="text"/> days (not more than 10) to <input type="text"/> (date). Explanation provided below.

<b>Explanation of Board Action:</b>

<b>BOARD ACTION ON EXCESS FEE APPEAL:</b>
<input type="checkbox"/> Fee amount waived. <input type="checkbox"/> Fee reduced to \$ <input type="text"/> . Explanation provided below. <input type="checkbox"/> Fee amount upheld. Explanation provided below. <input type="checkbox"/> Extend Board review period by <input type="text"/> days (not more than 10) to <input type="text"/> (date). Explanation provided below.

<b>Explanation of Board Action:</b>

<b>CERTIFICATION</b>
As Chairman of the Board of Directors of the Missaukee Conservation District, I certify that the statements above are accurate and the:
<input type="checkbox"/> reduced fee amount complies with the District's Procedures and Guidelines and Section 4 of the Michigan Freedom of Information Act, Public Act 442 of 1976 as amended;
<input type="checkbox"/> upheld fee amount complies with the District's Procedures and Guidelines and Section 4 of the Michigan Freedom of Information Act, Public Act 442 of 1976 as amended.
Chairman Name: _____ Date: _____
Chairman Signature: _____

**PUBLIC SUMMARY  
FREEDOM OF INFORMATION ACT (FOIA)  
PROCEDURES AND GUIDELINES**

**HOW TO SUBMIT REQUESTS**

FOIA requests to the District may be submitted by any of the following means:

Mail: Missaukee CD  
ATTN: FOIA Coordinator  
6180 W. Sanborn Road, Suite 3  
Lake City, MI 49651

E-mail: [sherry.blaszak@macd.org](mailto:sherry.blaszak@macd.org)

Fax: 231-839-7193

Verbal: Verbal requests will be accepted for information that is available on the District's public web site. The response to a verbal request will be informing the requestor of the pertinent web site address.

A "FOIA Request for Public Records" form is available from the District for submitting a FOIA request.

Requests should sufficiently describe the public record by name, time frame and other relevant information to enable the FOIA Coordinator to identify and locate the record.

Requests should also include the name of the requestor, phone number, mailing address and e-mail address, if available. Additional identifying information may be requested in order to complete a search for the requested records.

**HOW TO UNDERSTAND THE DISTRICT'S RESPONSES TO FOIA REQUESTS**

The District has several options when responding to written requests for public records:

1. It can grant the FOIA request,
2. deny the request,
3. grant it in part and deny it in part,
4. or take one ten (10) business day extension. After ten (10) business days pass, the District has to respond with one of the other options.

If the request is granted or granted in part and denied in part, the District can also charge a fee to process the request. Fees are calculated using its Procedures and Guidelines and you will receive a detailed itemization of the fee. The District may require you to pay a good faith deposit before it processes your request. After you pay any deposit and final balance due, the District will produce records in its possession that fall within the scope of your request and that legally may be disclosed to the public. The District may also notify you that some of the records you have requested are available on its web site.

If the request is denied, the District will inform you of the basis for its denial in a written notice. Reasons the District may deny a request include:

1. You did not describe the records you have requested well enough and the District cannot determine what you are asking for;
2. The District has determined that it does not have records that respond to your request in its possession; or
3. The records you have requested are exempt from public disclosure.

If all or part of your request is denied, the District will inform you of your right to appeal its denial to the District Board of Directors and/or to file a lawsuit against the District in its written response.

**FEE DEPOSIT REQUIREMENTS**

If the District estimates a fee to process a FOIA request greater than \$50.00, the District will require a good-faith deposit from you before providing the public records to you. The deposit will not exceed one-half (½) of the total estimated fee.

Any written notice containing a notice of a deposit shall also contain a best efforts estimate by the District regarding the timeframe after a deposit is received that it will take the District to provide the public records to you.

The time frame estimate is not binding upon the District, but the District will provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance.

## **FEE CALCULATIONS**

The FOIA permits the District to charge a fee to process FOIA requests using a form which will give you a detailed itemization of the costs involved. The District may charge for the following costs:

1. The costs of labor for search, location, and examination of public records;
2. The costs of labor for the reviewing, separating and deleting of exempt from non-exempt public records;
3. The cost of services performed by an outside contractor;
4. The cost of duplication and publication of public records;
5. The costs of copying public records;
6. The costs of non-paper physical media;
7. The actual costs of mailing public records;
8. The costs of labor to monitor an inspection of public records.

## **AVENUES FOR CHALLENGE AND APPEAL**

If the District denies all or part of a request; OR charges a fee amount you believe is too high, you may submit to the District Board of Directors a written appeal that specifically states the word "appeal" and identifies the basis for which the disclosure determination should be reversed, or fee should be reduced.

Written appeals may be sent to the mailing address or e-mail address listed above and will be forwarded to the Board for response.

A "FOIA Appeal Form" for a denied request or excess fee is available from the District for submitting an appeal.

## **QUESTIONS**

If you have any questions regarding the District's Freedom of Information Act Procedures and Guidelines, contact the Conservation District FOIA Coordinator.