

**FENNVILLE DISTRICT LIBRARY
FREEDOM OF INFORMATION ACT (FOIA)
PROCEDURES & GUIDELINES
Effective July 1, 2015; Revised _____**

The following Freedom of Information Act Procedures & Guidelines (“Procedures & Guidelines”) are established pursuant to Resolution No. 1, adopted by the Library Board of Fennville District Library (“Library”) on May 21, 2015 and Resolution No. _____ adopted by the Library Board on May ____, 2019. In addition, the Library Board shall create, and make publicly available, a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the Library and explaining how to understand the Library’s written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The Library will post the Procedures & Guidelines and the written public summary on the Library’s website at fennvilledl.michlibrary.org

SECTION 1 – DEFINITIONS

- Act:** The Michigan Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended.
- FOIA Coordinator:** The Library Director, as designated by the Library Board pursuant to Section 6(1) of the Act, and any other individual designated by the Library Director pursuant to Section 6(3) of the Act to act on the Library’s behalf in accepting and processing requests for the Library’s public records and in approving a denial under Section 5 of the Act.
- Person:** An individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in Michigan or any other state, or in a federal correctional facility.
- Public Record:** A writing which is prepared, owned, used, in the possession of, or retained by the Library in the performance of an official function from the time it is created and as otherwise defined by the Act. Public record does not include computer software.
- Library:** Fennville District Library and its boards and committees.
- Unusual Circumstances:** The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct records pursuant to a single request or the need to collect public records from numerous locations apart from the office receiving or processing the request. Where not otherwise defined, the words and phrases contained in this Procedures & Guidelines shall have the meaning given to them,

if any, by the Act.

SECTION 2 - RIGHT TO RECORDS

A person has the right to review public record(s) from the Library as provided in the Act. The request must be in writing and sufficiently describe the public record to enable the FOIA Coordinator to identify the requested public record.

A request from a person, other than an individual who qualifies as indigent under FOIA, must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address.

A person has the right to inspect a public record, or receive copies of a requested public record, unless exempted by law or court order. Upon written request, a person will be provided with a reasonable opportunity to inspect the public records provided by the Library. Inspection of public records shall occur only between the hours of 10:00 a.m. and 5:00 p.m. Monday through, Friday at the Library Building, unless otherwise agreed by the FOIA Coordinator in his or her sole discretion. Persons with special needs should contact the FOIA Coordinator beforehand to ensure that arrangements for special needs or reasonable facilities are prepared. The Library Board may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. When inspecting public records, a person shall not write on, alter, deface, or otherwise place any mark on a public record. The Library shall protect public records from loss, removal, unauthorized alteration, mutilation, or destruction. The Library may require the necessary copying of a public record for inspection in certain instances such as to allow for the redaction of exempt information, to protect old or delicate original records, or because the original public record is a digital file or database not available for public inspection. In such instances, the Library may require the requesting person to pay fees for such copying prior to inspection.

A person may request that copies of a public record be provided subject to the payment of fees as provided in Section 4 of these Procedures & Guidelines and Section 4 of the Act.

A person has the right to subscribe to future issuances of public records that are created, issued, or disseminated by the Library on a regular basis. A subscription shall be valid up to six months, at the request of the subscriber, and shall be renewable.

SECTION 3 – RIGHTS AND OBLIGATIONS OF THE LIBRARY

The Library shall process all written requests for a public record from a person. A request must sufficiently describe a public record so as to enable the FOIA Coordinator to identify and find the requested public record. If a verbal request is made for information that a Library employee

believes is available on its website, the employee shall, where practicable and to the best of the employee's knowledge, inform the requesting party about the Library's website address. If a request has not been made in writing, the FOIA Coordinator may, but is not obligated to, have the person complete the request form (see FOIA request form, Attachment A). Except as provided herein, the Library will not process a request for public records unless the request is in writing.

The Library shall not deliver a copy of a public record or make a public record available to the requesting person until payment of the fees established under Section 4 of these Procedures & Guidelines and Section 4 of the Act. If the Library delivers a copy or makes a public record available and the requesting person has not made payment at the time, the Library shall be entitled to collect payment from the requesting person by any legal means.

The FOIA Coordinator will provide a certified copy of a public record if a person so requests in writing.

The Act does not require the Library or the FOIA Coordinator to make a compilation, summary, report of information, or create a new public record. Neither the Library nor the FOIA Coordinator is obligated to provide answers to oral or written questions. Unless a person requires the Library to provide copies to the person, the Library may allow for inspection of public records.

The FOIA Coordinator shall keep a copy of all written requests on file for not less than one year.

Whenever copies are made for a requesting party under FOIA, the FOIA Coordinator shall make and keep for its files one extra set of copies thereof, in case it is necessary later to prove exactly which copies were made and given to the requesting party. Such extra set of copies shall be kept by the FOIA Coordinator for at least one (1) year. There shall be no charge or fee to the requesting party for such extra set of copies kept by the FOIA Coordinator.

SECTION 4 – FEES AND DEPOSITS

The Library Board shall adopt, by resolution, a schedule of fees for processing FOIA requests and for providing copies of public records in accordance with the Act. All FOIA requests submitted pursuant to the Act shall be subject to the fees adopted by the Library Board, except any fees as otherwise provided by law. All fees for responding to written FOIA requests shall be itemized in detail on Attachment B (Detailed Cost Itemization). The Library will use the most economical means available for making copies of public records.

The FOIA Coordinator will require that payment be made in full for the allowable fees for processing and responding to a FOIA request before the public record is made available.

The FOIA Coordinator may waive a fee or reduce a fee if it is determined 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.

The Library may charge for the following six categories of costs associated with processing a FOIA request:

- 1) Labor costs directly associated with searching for, locating and examining a requested public record, as provided in Section 4(1)(a) of the Act;
- 2) Labor costs directly associated with a review of a record to separate and delete information exempt from disclosure from information which is not exempt from disclosure, as provided in Section 4(1)(b) of the Act;
- 3) The actual and most reasonably economical costs of computer discs, computer tapes, or other digital or similar media, as provided in Section 4(1)(c) of the Act;
- 4) The actual total incremental cost of duplication or publication, not including labor, of paper copies of public records, as provided in Section 4(1)(d) of the Act;
- 5) The cost of labor directly associated with duplication or publication, 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 as provided in Section 4(1)(e) of the Act; and
- 6) The actual cost of mailing for sending a public record in a reasonably economical and justifiable manner as provided in Section 4(1)(f) of the Act.

Labor costs will be calculated based on the following requirements:

- All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no labor charge.
- Charges for labor costs will be determined by using the hourly wages of the lowest paid public body employee capable of performing the work in the particular instance regardless of who actually performed the labor, as provided in the Act.
- Overtime wages will not be included in labor costs unless agreed to by the requesting person and the overtime wages are clearly noted on the Detailed Cost Itemization (Attachment B).
- Labor costs will include a charge to cover or partially cover the cost of fringe benefits. The Library may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier on the Detailed Cost Itemization (Attachment B) but in no case shall the Library charge more than the actual cost of fringe benefits. If the Library includes the website address for a public record in its written response to the requesting person and the requesting person thereafter requests that the public record be

provided to him or her in a paper format or non-paper physical media, the Library shall provide the public records in the specified format but may use a fringe benefit multiplier greater than 50% not to exceed the actual costs of providing the information in the specified format as provided in Section 4(5) of the Act. Overtime costs will not be used to calculate the fringe benefit cost.

- Any public records available to the general public on the Library's website at the time a request is made are exempt from charges for labor costs for separating and deleting of exempt information.
- The Library shall not charge for labor directly associated with redaction under Section 14 of the Act if the Library knows or has reason to know that it previously redacted the public record in question and the redacted version is still in the Library's possession.

The cost to provide paper copies of records will be based on the following requirements:

- The cost of paper copies will be calculated as a total cost per sheet of paper and shall be itemized on Detailed Cost Itemization (Attachment B). The cost of paper copies of public records made on standard letter size (8-1/2 by 11") or legal size (8-1/2 by 14") paper will be \$0.10 per sheet of paper. Copies for non-standard or legal size sheets of paper will reflect actual cost of duplication.
- The Library shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

The cost to provide records on non-paper physical media when stipulated by the requesting person will be based on the following requirements:

- Computer discs, computer tapes or other digital or similar media will be at actual and most reasonably economical cost for the non-paper media.
- The requirement to provide records on non-paper physical media will not apply if the Library lacks the technological capability necessary to provide the public record on the non-paper physical media stipulated in the particular instance.
- In order to ensure the integrity and security of the Library's technological infrastructure, the Library will procure any requested non-paper media and will not accept non-paper media from the requesting person.

The cost to mail records to a requesting person will be based on the following requirements:

- The actual cost to mail copies of public records using a reasonably economical and justified means.

- The Library will not charge for expedited shipping or insurance unless specifically stipulated by the requesting person but the Library may charge the least expensive form of postal delivery confirmation.

The FOIA Coordinator will only charge a fee for the cost involved with searching for, examining, or reviewing a public record, and the deletion and separation of exempt from nonexempt information, when such activities will result in an unreasonably high cost to the Library, as determined by the FOIA Coordinator. The fee may include the cost of labor for searching for, examining, or reviewing a public record, and the deletion and separation of exempt from nonexempt information, in response to a request for the inspection of a public record or a request for copies of a public record as permitted by FOIA. In determining what is an unreasonably high cost to the Library, the FOIA Coordinator shall consider the following factors on a case-by case basis:

- Volume of public records requested;
- The time frame for the public records requested;
- Complexity of searching for, examining, reviewing a public record, and the deletion and separation of exempt from non-exempt information;
- The need to search for, examine, and review public records from different departments or offices of the Library;
- The anticipated hours of labor;
- The available staffing for responding to the request;
- The extent to which the particular request incurs costs greater than the costs incurred for the typical or usual request received by the Library.
- Any other similar factors designated as applicable by the FOIA Coordinator.

A public record search shall be made and a copy shall be furnished without the charge for the first \$20.00 of the fee for each request by either of the following:

- An individual who submits an affidavit stating that the person is indigent and receiving specific public assistance or, if not receiving specific public assistance, stating facts showing an inability to pay the cost because of indigency. If the requesting person is eligible for a requested discount, the FOIA Coordinator shall fully note the discount on the detailed itemization described in the Detailed Cost Itemization (Attachment B). If a requesting person is ineligible for the discount, the FOIA Coordinator shall inform the requesting person specifically of the reason for ineligibility in the FOIA Coordinator's written response. An individual is ineligible for this fee reduction if any of the following apply:

- The individual has previously received discounted copies of public records from the Library twice during that calendar year.
- 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. The FOIA Coordinator may require a statement by the requesting person in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.
- A nonprofit organization formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, if the request:
 - Is made directly on behalf of the organization or its clients;
 - Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and
 - Is accompanied by documentation of its designation by the State of Michigan, if requested by the FOIA Coordinator.

In either the Library's initial response or subsequent response to a FOIA request under Section 5(2)(d) of the Act, the Library may require a good-faith deposit from the requesting person before providing the public records if the entire fee estimate or charge authorized under Section 4 of the Act exceeds \$50, based on a good-faith calculation of the total fee. The deposit shall not exceed 1/2 of the total estimated fee, and the Library's request for a deposit shall include a detailed itemization on the Detailed Cost Itemization (Attachment B). The Library's response shall also contain a best efforts estimate by the Library regarding the time frame it will take the Library to comply with the Act in providing the public records to the requesting party. If the Library does not respond in a timely manner as described in section 5(2) of the Act, it is not relieved from its requirements to provide proper fee calculations and time frame estimates in any tardy responses.

If the Library has not been paid in full the total fees for copies of public records that the Library has made available to an individual, the Library may require a deposit of up to 100% of the estimated fee before the FOIA Coordinator begins a full public record search for any subsequent written request from that individual if all of the following apply:

- The final fee for the prior written request was not more than 105% of the estimated fee.
- The public records made available contained the information being sought in the prior written request and are still in the Library's possession.

- The public records were made available to the individual, subject to payment, within the time frame estimate described in the prior request.
- Forty-five (45) days have passed since the Library 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 Library.
- The FOIA Coordinator calculates a detailed itemization on Attachment B (Detailed Cost Itemization) that is the basis of the current written requests' increased fee deposit.

The Library will no longer require an increased estimated fee deposit from an individual as provided above if any of the following apply:

- The individual is able to show proof of prior payment in full to the Library.
- The Library is subsequently paid in full for the applicable prior written request.
- 365 days have passed since the individual made the written request for which full payment was not remitted to the Library.

If a required deposit is not received by the Library within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 10a of FOIA, the request shall be considered abandoned by the requesting person and the Library is no longer required to fulfill the request. Notice of a deposit requirement is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

The Library has limited in-house capabilities for copying photographs, audio or video tapes, microforms, maps, or plans. If a person requests that copies be made of these or large documents which must be copied off-site, the FOIA Coordinator will determine and assess those costs. If an officer or employee of the Library is required to deliver and/or pick up the public records and/or copies of public records, the labor hours spent and applicable mileage (at Library rates) will also be applied to the charges of the person(s) requesting the public records.

If the Library does not employ a person or firm capable of separating and deleting exempt from non-exempt information, the Library may use contracted persons or firms to perform this task. In such case, the Library may treat the necessary contract labor costs in the same manner as employee labor costs if the FOIA Coordinator clearly notes the name of the contracted person or firm in Attachment B (Detailed Cost Itemization) provided that the total contracted labor costs will not exceed six (6) times the State of Michigan hourly minimum wage. Contracted persons or firms may include attorneys who are required to separate and delete exempt from non-exempt information.

Charges for labor costs shall be reduced by 5% for each day that the Library exceeds the time permitted in responding to a FOIA request under Section 5(2) of the Act, up to a 50% maximum reduction, if either of the following applies:

- The late response was willful and intentional; or
- The written request, within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for “freedom of information”, “information”, “FOIA”, “copy” or a recognizable misspelling of such, or legal code reference to MCL 15.231 et seq. or 1976 Public Act 442 on the front of an envelope or in the subject line of an email, letter, or facsimile cover page.

If such a reduction is required for a late response, the FOIA Coordinator shall fully note the reduction on Attachment B (Detailed Cost Itemization).

The FOIA Coordinator shall not charge additional fees for certification of any copies.

A person who has subscribed to future issuances of regularly published public records pursuant to Section 3(1) of the Act may request that the public record, be sent to them or they may be called for pickup of the public record provided, however, that copy fees and mailing charges for such public records must be paid before the requested public record is sent or picked up by the person.

SECTION 5 – PROCEDURES OF THE PUBLIC BODY IN PROCESSING A FOIA REQUEST

After a person has made a written request for a public record in accordance with the Act, the FOIA Coordinator shall respond within five (5) business days after its receipt. A written request made by facsimile, electronic mail, or other electronic transmission is not considered received by the FOIA Coordinator until one (1) business day after the electronic transmission is made, as provided in the Act. A written request sent by email and delivered to the Library’s spam or junk folder is not considered received by the Library until one (1) day after it first becomes aware of the written request. The Library will note in its records both the time a written request is delivered to its spam or junk mail folder and the time that it first becomes aware of that request.

A person making a written request for a public record may stipulate that the public records be provided on non-paper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies. This requirement shall not apply if the Library lacks the technological capability necessary to provide records on the particular non-paper physical media stipulated in the particular instance. If public records are provided on non-paper physical media, electronically mailed or otherwise electronically provided in lieu of paper copies as stipulated by the person making the request, the Library may charge more than the 50% fringe benefit multiplier (not to exceed actual cost) as provided in Section 4(5) of the Act.

If a verbal request is made for information that a Library employee believes is available on its website, the employee shall, where practicable and to the best of the employee's knowledge, inform the requesting party about the Library's website address.

Where a written request is received which does not sufficiently describe the public records requested so as to enable the FOIA Coordinator to identify and find the public record, FOIA Coordinator will notify the requesting person of the need for a clarification. Such notice, if sent, shall not be interpreted as a denial of the request for purposes of the Act or these Procedures & Guidelines. Any clarification will be considered a new FOIA request subject to the timelines described in this Section and the Act.

The FOIA Coordinator will process written requests for a public record by responding within five (5) business days of receipt in one of the following five ways:

- 1) Grant the request.

If the request indicates that the person desires to inspect the public records, the FOIA Coordinator will contact the person to arrange for inspection at a reasonable time during normal office hours.

If the request indicates that the person is requesting copies of a public record, the FOIA Coordinator will forward notification to the requesting person indicating the amount due and where the documents may be released upon payment of the applicable fees. However, if the request is estimated to generate entire fees of \$50 or more, the FOIA Coordinator may require fifty percent (50%) of the estimated charges be deposited in advance of the processing of the request provided, however, that in the request for the deposit, the FOIA Coordinator shall include a detailed itemization of the estimated fees (using Attachment B/Detailed Cost Itemization) and a "best efforts" estimate of a nonbinding time frame for providing the public records. The FOIA Coordinator will not process the request unless and until the deposit is made. The balance of the fees must be paid prior to release of documents.

- 2) Issue a written notice denying the request. The FOIA Coordinator may use the form attached as Attachment D for this purpose. The notice of the denial shall include:
 - an explanation as to why the requested public record is exempt from disclosure in accordance with the Act, or
 - a certificate that the requested public record does not exist under the name given by the requesting person or by another name reasonably known to the Library, or
 - a description of a public record or information which had to be separated or deleted from the public record pursuant to Section 14 of the Act.

- In addition to the explanations noted above, the denial shall also include a full explanation of the person's right to appeal the denial to the Library Board and to seek judicial review in accordance with Section 10 of the Act.
- 3) Grant the request in part, and issue a written notice denying the request in part. In the latter instance, the public records exempted from disclosure shall be treated as in subsection (2) above.
 - 4) Issue a written notice extending the time in which to respond to the request by ten (10) business days. The FOIA Coordinator may use the form attached as Attachment C for this purpose. The notice will specify the reasons for the extension and the date by which the Library will grant the request, deny the request, or grant in part and deny in part the request. The Library shall not issue more than one such notice of extension for a particular request.
 - 5) Issue a written notice indicating that all or a portion of a requested public record is available at no charge on the Library's website. To the degree practicable, the written response shall include a specific webpage address where the requested information is available. On Attachment B (Detailed Cost Itemization), the FOIA Coordinator shall separate the requested public records that are available on the Library's website from those that are not available on the website and shall inform the requesting party of the additional charge to receive copies of the public records that are available on its website. If the Library has included the website address for a public record in its written response to the requesting person and the requesting person thereafter stipulates that the public record be provided to him or her in a paper format or non-paper physical media, the Library shall provide the public records in the specified format but may use a fringe benefit multiplier greater than 50% not to exceed the actual costs of providing the information in the specified format as provided in Section 4(5) of the Act.

Failure to respond to a written request in a timely manner as required by Section 5(2) of the Act constitutes a denial of the request if either of the following apply:

- The failure was willful and intentional; or
- the written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference to the Act, on the front of an envelope or in the subject line of an electronic mail, letter, or facsimile cover page.

A copy of these Procedures & Guidelines and the written public summary of these Procedures & Guidelines shall be furnished free of charge to the requesting party in response to a written FOIA request and upon request by visitors at the Library Building. In lieu of providing

- issue a written notice to the requesting person upholding the disclosure denial, or
- reverse the disclosure denial in part and issue a written notice to the requesting person upholding the denial in part, or
- under unusual circumstances, issue a notice extending for not more than ten (10) business days the period during which the Library Board will respond to the written appeal. The Library Board shall not issue more than one notice of extension for a particular written appeal.

Whether or not a person has submitted an appeal under this Section, the person may choose to commence an action in the Circuit Court to compel the Library's disclosure of public records as provided in Section 10 of the Act.

SECTION 9-APPEALS-FEES

If a requesting person believes that the Library is requiring a fee that exceeds the amount permitted under these Procedures & Guidelines or Section 4 of the Act, the requesting person may submit to the Library Board as 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. The person making the appeal may use the form attached as Attachment F. The Library Board is not considered to have received a written appeal until the first regularly scheduled meeting of the Library Board following submission of the written appeal.

Within 10 business days after receiving a written appeal challenging fees, the Library Board shall do one of the following:

- Waive the fee.
- Reduce the fee and issue a written determination to the requesting person indicating the specific basis under Section 4 of the Act that supports the remaining fee. The determination shall include a certification from the Library Board that the statements in the determination are accurate and that the reduced fee amount complies with these Procedures & Guidelines and Section 4 of the Act.
- 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 Library Board that the statements in the determination are accurate and that the fee amount complies with these Procedures & Guidelines and Section 4 of the Act.
- Issue a notice extending for not more than 10 business days the period during which the Library Board must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The Library Board

shall not issue more than 1 notice of extension for a particular written appeal.

Within 45 days after receiving notice of the Library Board's determination of an appeal regarding fees under this Section or the Library Board's failure to act timely on the appeal as required by Section 10a(2) of the Act, the person who filed the appeal may commence a civil action as provided in Section 10a of the Act. If a civil action is commenced against the Library under this Section, the Library is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

As used in this Section, "fee" means the total fee or any component of the total fee calculated under Section 4 of the Act, including any deposit.

SECTION 10-INTERPRETATION AND EFFECTIVE DATE

These Procedures & Guidelines are intended to fully comply with the Act. In the event of any inadvertent inconsistency between the Act and these Procedures & Guidelines, the Act shall control.

These Procedures & Guidelines shall become effective as of July 1, 2015.

SECTION 11 – FORMS

The following forms attached hereto are incorporated into these Procedures & Guidelines:

Attachment A	FOIA Request for Public Records Form
Attachment B	Detailed Cost Itemization
Attachment C	Notice to Extend Time for a FOIA Request
Attachment D	Notice of Denial of FOIA Request
Attachment E	FOIA Appeal Form-To Appeal of a Denial of Records
Attachment F	FOIA Appeal Form-To Appeal an Excess Fee

The FOIA Coordinator may use the forms in substantially the form attached as Attachments A through F in processing FOIA requests. The FOIA Coordinator may modify the forms attached as Attachments A through F as necessary or appropriate to conform the forms to these Procedures & Guidelines or the Act or to otherwise improve the forms for use by the FOIA Coordinator and the public.

FENNVILLE DISTRICT LIBRARY
WRITTEN PUBLIC SUMMARY OF FOIA PROCEDURES & GUIDELINES
Effective July 1, 2015; Revised May ____, 2019

Pursuant to the requirements of the Freedom of Information Act (FOIA), the following is the Written Public Summary of Fennville District Library's FOIA Procedures & Guidelines relevant to the general public regarding how to submit written FOIA requests to the Library and explaining how to understand the Library's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. This Written Public Summary shall be available on the Library's website at fennvilledl.michlibrary.org/

1. Process for Submitting FOIA Requests:

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Library must be submitted in writing.
- Other than an individual who qualifies as indigent under FOIA, the request must include the requesting person's complete name, address, and contact information. If the request is made by an entity, the complete name, address, and contact information of the entity's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address.
- A request must sufficiently describe a public record so as to enable the Library 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 Library's website at fennvilledl.michlibrary.org/
- Written requests can be made in person by delivery to the Library in person or by mail to the Library Director at 400 West Main Street Fennville, MI 49408.
- Requests may also be made by facsimile to the Library Director at the following fax number: 269-561-5251.
- A request may also be submitted by e-mail to the Library Director at fentk@llcoop.org.

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

2. The Library's Response to FOIA Requests:

- Within 5 business days of receipt of a FOIA request, the Library 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 Library 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 that the Library is extending the time for responding by an additional 10 business days.
 - Issue a written notice indicating that the public record requested is available at no charge on the Library's website.
- If the request is granted, or granted in part, the Library will require that payment be made for the allowable fees associated with responding to the request before the public record is made available.

3. Fee Deposit Requirements:

- If the Library has made a good faith calculation that the total estimated fee for processing the request exceeds \$50.00, the Library may require that you provide a deposit in the amount of 50% of the total estimated fee. When the Library 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 Library of your deposit.
- If the Library receives a request from a person who has not paid the Library for copies of public records made in fulfillment of a previously granted written request, the Library may require a deposit of 100% of the estimate 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 Library's possession;
 - The public records were made available to the individual, subject to payment, within the time frame estimated by the Library to provide the records;
 - 45 days have passed since the Library 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 Library; and

- The Library has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The Library 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 Library;
 - The Library 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 Library.
- If a required deposit is not received by the Library within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 10a of FOIA, the request shall be considered abandoned by the requesting person and the Library is no longer required to fulfill the request. Notice of a deposit requirement is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

4. Fees for Processing FOIA Requests:

- The FOIA Coordinator will require payment in full for the allowable fees for processing and responding to a FOIA request before the public record is made available.
- FOIA permits the Library to charge and collect a fee for the following six categories of costs associated with responding to a FOIA request:
 - Labor costs directly associated with searching for, locating and examining a requested public record.
 - Labor costs directly associated with a review of a record to separate and delete information exempt from disclosure from information which is not exempt from disclosure.
 - The actual and most reasonably economical cost of computer discs, computer tapes or other digital or similar media.
 - The actual total incremental cost of duplication or publication, not including labor, of paper copies of public records.

- Labor costs directly associated with duplication or publication including making paper copies, making digital copies, or transferring digital public records to the requesting person in non-paper physical media or through the Internet or other electronic means.
- The cost to mail or send a public record to a requestor.
- Labor Costs
 - All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no labor charge.
 - Labor costs will be charged at the hourly wage of the lowest-paid employee capable of performing the work in the specific instance, regardless of who actually performs the labor.
 - Labor costs may also include a charge to cover or partially cover the cost of fringe benefits up to 50% of the labor charge amount but not to exceed the actual fringe benefit cost.
- 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 be charged only if the Library has the technological capability necessary to provide the public record in the non-paper physical media format.
- Paper Copies
 - The cost of paper copies of public records made on standard letter (8 1/2 x 11) or legal (8 1/2 x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheet paper will reflect the actual cost of duplication.
 - The Library will utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.
- Mailing Costs
 - The Library will charge the actual cost to mail public records using a reasonably economical and justified means.
 - The Library will not charge for expedited shipping or insurance unless

requested by the requesting person but the Library may charge the least expensive form of postal delivery confirmation.

- A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Library because of the nature of the request in the particular instance, and the Library specifically identifies the nature of the unreasonably high costs.
- The FOIA Coordinator may waive or reduce a fee if it is determined 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.

5. Eligibility for Fee Reduction:

- The Library 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 specific public assistance, stating facts demonstrating an inability to pay because of indigency.
- You are not eligible to receive the \$20.00 waiver based on indigency if you:
 - Have previously received discounted copies of public records from the Library 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.
- The Library will waive the first \$20.00 of the processing fee for a request if you are a nonprofit organization designated by the State of Michigan to carry out certain activities and your request satisfies certain criteria. (Please see the full Procedures & Guidelines for more information).

6. Appeals-Denials of FOIA Request:

- 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 a written appeal of the denial with the Library Board (c/o the Library Director). 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. The Library Board is not considered to have received the written appeal until the first regularly scheduled Library Board meeting after the submission of the written appeal.

- Within 10 business days of receiving the written appeal, the Library Board 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.
 - Under unusual circumstances, issue a notice extending for not more than ten (10) business days the period during which the Library Board will respond to the written appeal. The Library Board shall not issue more than one notice of extension for a particular written appeal.
- Whether or not you submitted an appeal of a denial to the Library Board, you may file a civil action in Circuit Court to compel the Library's disclosure of public records as provided in Section 10 of the Act.

7. Appeals-Fees:

- If you believe that the fee charged by the Library to process your FOIA request exceeds the amount permitted by FOIA, you must first submit a written appeal for a fee reduction to the Library Board (c/o the Library Director). The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The Library Board is not considered to have received a written appeal until the first regularly scheduled meeting of the Library Board following the first regularly scheduled meeting of the Library Board following submission of the written appeal.
- Within 10 business days after receiving the appeal, the Library Board 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 Library Board will respond to the written appeal. The Library Board will not issue more than one notice of extension for a particular written appeal.
- Within 45 days after receiving notice of the Library Board's determination of the

processing fee appeal or the Library Board's failure to timely act on the written appeal as required by Section 10a(2) of the Act, you may commence a civil action in Circuit Court for a fee reduction. If you file such a civil action, the Library is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

More Detail and Information:

This is only a summary of the Library's FOIA Procedures & Guidelines and does not necessarily reflect all provisions of the Procedures & Guidelines. For more details and information, complete copies of the FOIA Procedures & Guidelines are available at no charge at the Library and on the Library's website at fennvilledl.michlibrary.org/

Adopted May 21, 2015; Rev. May ____, 2019

FENNVILLE DISTRICT LIBRARY

FREEDOM OF INFORMATION ACT POLICY RESOLUTION

At a Regular Meeting of the Fennville District Library Board ("Library Board") held on May 16, 2019 the following Resolution was offered by Robert Sherwood and supported by Lindsey Gould.

WHEREAS, the Michigan Freedom of information Act, Public Act 442 of 1976, MCL 15.231, et seq. (the "Act"), provides for public access to certain public records of public bodies and prescribes the powers and duties of certain public officers and public bodies; and

WHEREAS, it is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, and that the people shall be informed so that they may fully participate in the democratic process; and

WHEREAS, as a result of amendments to the Act, the Library Board adopted procedures and guidelines and a written public summary thereof, effective as of July 1, 2015, in order to continue to charge costs and fees for the provision of copies.

WHEREAS, further amendments to the Act have been adopted by the State concerning further requirements as to the form of a public records request and when a public records request may be considered abandoned and the Library Board desires to clarify its existing policies to incorporate such legislative changes.

NOW, THEREFORE, IT IS RESOLVED that the Library Board approves and adopts the Freedom of Information Procedures & Guidelines ("Procedures & Guidelines") attached as Exhibit A, effective as of July 1, 2015, and revised as of _____ 2019, and directs the Library Director to post the Procedures & Guidelines on the Library's website as revised and to take all other steps required by law in order that the Library may continue to seek reimbursement for its costs in the provision of public records.

BE IT FURTHER RESOLVED that the Library Board hereby approves and adopts the Written Public Summary of the Procedures & Guidelines ("Summary") attached as Exhibit B effective as of July 1, 2015, and as revised as of May 16, 2019 and directs the Library Director to post the Summary on the Library's website as revised.

BE IT FURTHER RESOLVED that as provided in the Procedures & Guidelines, the Library Board designates the Library Director as the Library's FOIA Coordinator and authorizes the

FOIA Coordinator to designate other Library employees to act on his or her behalf in accepting and processing requests for the Library's public records and in approving a denial under Section 5 of the Act.

BE IT FURTHER RESOLVED that the Library's FOIA Policy is stated in its Procedures & Guidelines attached as Exhibit A, effective July 1, 2015, and as revised May 16, 2019.

BE IT FURTHER RESOLVED that resolutions or portions of resolutions inconsistent with this Resolution are hereby rescinded to the extent of any such conflict.

A YES: A 11

NAYS: NONE

RESOLUTION DECLARED ADOPTED May 16, 2019.

CERTIFICATE

I, the undersigned, the duly qualified and acting Secretary of Fennville District Library, Allegan County, Michigan do hereby certify that the foregoing is a true and complete copy of the Resolution adopted by the Fennville District Library Board at a regular meeting of said Board held on the 16th day of May, 2019 at which meeting a quorum was present and voting. I do further hereby certify that public notice of said meeting was given pursuant to and in full compliance with Michigan Act 267 of 1967, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Marilyn D. Jones, Secretary