

**Shiawassee County
Operational Procedures–Freedom of Information Act**

I. PURPOSE: These Operational Procedures have been developed to implement the Shiawassee County FOIA Procedures and Guidelines adopted by the Board of Commissioners.

II. DEFINITIONS:

A. FOIA: The Michigan Freedom of Information Act, codified at MCLA 15.321 *et seq.*, as amended.

B. County FOIA Coordinator: The County FOIA Coordinator, pursuant to MCL 15.236(1), is the Chairperson of the County Board of Commissioners. As used in this policy, the term “County FOIA Coordinator” shall mean the Chairperson of the County Board of Commissioners, or the Chairperson’s designee under MCL 15.236(3). The Shiawassee County Clerk is designated as the County FOIA Coordinator.

C. Department FOIA Coordinator: The Department FOIA Coordinator is the person designated by an appointed County Department Head or by a County Elected Officer to coordinate with the County FOIA Coordinator in implementing the County FOIA Procedures and Guidelines and ensuring compliance with the Michigan Freedom of Information Act. Christy Duffield is appointed FOIA Coordinator for the Sheriff’s Office and Denise Gagnon is appointed FOIA Coordinator for the Health Department.

D. Public Body: Public Body shall include, but not be limited to, the following:

1. All County Departments

2. Elected Officers: Shiawassee County elected officers including the Board of Commissioners, Clerk, Register of Deeds, Treasurer’s Office, Sheriff’s Office, Prosecuting Attorney’s Office, and Drain Commissioner’s Office.

Exception: County Clerk and Clerk’s employees when acting as clerks of the Courts do not represent a Public Body.

E. Public Record: A writing prepared, owned, used, in the possession of, or retained by a Public Body in the performance of an official function, from the time it is created.

Exception: computer software.

F. Redaction: Editing of a public record by deletion, masking or separation to remove exempt material from non-exempt material.

G. Requesting Person: An individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity.

- H. **Writing:** The written word, a photocopy, photograph, map, microfilm, sound, symbol, computer file, e-mail or digitally scanned image.

III. FOIA COORDINATORS:

- A. **Designations:** The statutory County FOIA Coordinator, being the Chairperson of the County Board of Commissioners may, pursuant to MCL 15.236(3), designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial of requests under FOIA. The Shiawassee County Clerk is designated as the County FOIA Coordinator.

Each appointed Department Head, in conjunction with the County FOIA Coordinator, and each elected County Officer, may designate an individual to act as Department FOIA Coordinators.

- B. **Responsibilities:** The County FOIA Coordinator and, where applicable, the Department FOIA Coordinators shall be responsible for accepting and processing requests for the Public Body's public records, and shall be responsible for granting or denying public records where appropriate.

1. **Training:** The County FOIA Coordinator and Department FOIA Coordinators shall receive training in the application of FOIA and the use of the required form packet, and shall be advised of amendments to FOIA as necessary. The County FOIA Coordinator and Department FOIA Coordinators shall seek the advice of County's Attorney, when questions of legal interpretation arise.
2. **Form Packet:** The County FOIA Coordinator and Department FOIA Coordinators shall use the Shiawassee County FOIA Forms adopted with the Shiawassee County FOIA Procedures and Guidelines to process and respond to requests.
3. **Filed Requests:** The County FOIA Coordinator, the Sheriff's Office and Health Department FOIA Coordinators shall keep all FOIA requests, responses and appeals on file for no less than one (1) year from the date of final response or written decision on appeal, whichever is later.
4. **Monitoring:** The County FOIA Coordinator and Department FOIA Coordinators shall ensure that any FOIA requests he/she receive by electronic device or system are monitored and responded to by a responsible person when the County FOIA Coordinator or Department FOIA Coordinators will not have access to said device or system for more than one (1) business day.

IV. PROCEDURES:

- A. **Receive Request:** The requesting person shall provide the Public Body with a written request that describes a public record sufficiently to enable the Public Body's FOIA Coordinator to find it. The written request may be transmitted by facsimile, electronic

mail or other electronic means, but if it is transmitted by such means, it will be considered received by the Public Body one (1) business day after the transmission is made.

- B. Forward Request to FOIA Coordinators:** All County officers and employees who receive a FOIA request shall note the date of receipt on the request and forward it within one (1) business day to the County FOIA Coordinator and, where applicable, the Department FOIA Coordinators for the department or agency where the records are kept. If a County officer or employee is unable to determine where to direct the request, it shall be submitted to the County FOIA Coordinator within one (1) business day of receipt. If the County FOIA Coordinator receives a FOIA request directly from a requestor, or from another Department FOIA Coordinator, a copy of the request shall be sent to the Department FOIA Coordinator that may possess the requested documents within one (1) business day. If the Department involved does not have an appointed Department FOIA Coordinator, the request will be sent to applicable Department Head.
- C. Review Request:** After receiving a request and within sufficient time to ensure compliance with the FOIA response requirements, a Department FOIA Coordinator, or Department Head if there is no Department FOIA Coordinator, shall:
1. Determine if there is an existing public record that satisfies the request.
 2. Determine if any requested records, in whole or in part, are available on the County's website.
 3. Determine if any requested records, in whole or in part, are subject to denial or exempt from disclosure. A requested record which is subject to denial or exempt from disclosure, in whole or in part, shall not be disclosed unless approved by County's Attorney.
- D. Determine if Request Contains Grounds for Denial:**
1. A FOIA request shall be denied if the requesting person is serving a sentence of imprisonment in a local, state or federal correctional facility.
 2. A FOIA request shall be denied if the requesting person does not describe a public record sufficiently to enable the Public Body to find it.
 3. A FOIA request shall be denied if it requires the Public Body to create a new public record or make a compilation, summary or report of information.
- E. Examine Request for Exemptions:** The requested public records shall be reviewed as to whether, in whole or in part, they are exempt from disclosure, and whether any portions of the records are subject to redactions prior to disclosure. Any questions concerning the general legal parameters of an exemption, redactions, or applicability in a particular situation, should be directed to County's Attorney or the County FOIA Coordinator.

- F. Reporting Status:** The Department FOIA Coordinator, or Department Head if there is no Department FOIA Coordinator, shall advise the County FOIA Coordinator within three (3) business days as to whether the requested records exist and whether they are, in whole or in part, available on the County website, and are subject to denial or exempt from disclosure. If additional time is necessary to provide this information, the County FOIA Coordinator will be advised and provided a good faith estimate of when the information can be provided.
- G. Redaction:** If a public record contains both exempt and nonexempt material, the County FOIA Coordinator or Department FOIA Coordinators shall edit the record by deletion, masking or separation of the exempt from the nonexempt material, and shall then provide the nonexempt material to the requesting person. The County FOIA Coordinator shall generally describe the redacted material, unless the description would reveal its contents.
- H. Respond to Request:** The County FOIA Coordinator shall respond to a request, using the required form packet, within five (5) business days from the date upon which he/she receives the request, unless otherwise agreed to in writing by the requesting person.
- I. Process Response:** If the requested record is not subject to one of the grounds for denial or an exemption, it shall be processed in the following manner:
- 1. Response Options:** Within five (5) business days, unless otherwise agreed to in writing by the requesting person, the County FOIA Coordinator shall do one of the following:
 - a.** Grant the request.
 - b.** Deny the request and provide the reason why the request is subject to denial or exempt.
 - c.** Grant the request in part and deny the request in part.
 - d.** Using the FOIA response form, provide notice extending the response deadline for not more than an additional ten (10) business days. The notice shall contain the reasons for the extension and the date by which the Public Body will respond to the request. Not more than one (1) notice of extension shall be issued.
- J. Fees for Public Records:**
- 1. Permissible Fees:** The Public Body may charge a fee for copying public records for the requesting person or to enable inspection. A fee may also be charged for search, examination, review or redaction of public records, but only if failure to charge a fee would result in unreasonably high costs

specifically identified by the Public Body. Collected fees shall be credited to the Public Body that incurred the cost of processing the request.

- 2. Calculation of Fees:** The applicable fees shall be calculated by the County FOIA Coordinator in accordance with the County's FOIA Procedures and Guidelines and using the Detailed Cost Itemization Form. The Department FOIA Coordinators shall assist in providing the applicable labor and copying costs to the County FOIA Coordinator.
- K. Deposit:** If the total fee exceeds \$50.00, the County FOIA Coordinator or Department FOIA Coordinators may require a deposit of not more than one-half of the fee. The Requestor will also be provided a good faith estimate of when the records will be provided to the requester when a deposit is required.
- L. Fee Payment Enforcement:** Once copies of the requested records have been made, the Public Body is authorized to require payment of fees in full before it delivers the records to the requesting person.
- Exception:** If a deposit is required, the Public Body may refuse to process the request until the deposit is paid.
- M. Exceptions to Fee Procedure:**
1. Public records may be provided without charge or at reduced charge if the Public Body determines that the record primarily benefits the general public, and it is in the public interest to provide it without charge or at reduced charge.
 2. The first \$20.00 of the total fee for requested records shall be waived if the requesting person submits an Affidavit of Indigence (contained in the required form packet).
- N. Appeal:** A requesting person has the right to appeal the denial of a request for public records, or to appeal the fees charged. All such Appeals shall be filed with the County FOIA Coordinator and shall be processed in accordance with the Shiawassee County FOIA Procedures and Guidelines.