

Staff: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

Village of Pentwater
327 South Hancock St, P.O. 622
Pentwater, MI 49449
Phone: (231) 869-8301 – Fax: (231) 869-5120

Request Form
Note: Requestors are not required to use this form. The Village shall complete one for recordkeeping if not used.

FOIA Request for Public Records
Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ Date Received: _____ Check if received via: Email Fax Other Electronic Method

Date delivered to junk/spam folder: _____

Date discovered in junk/spam folder: _____

(Please Print or Type)

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis

Delivery Method: Will pick up Will make own copies onsite Mail to address above Email to address above
 Deliver on digital media provided by the Village:

Note: The Village is not required to provide records in a digital format or on digital media if the Village does not already have the technological capability to do so.

Describe the public record(s) as specifically as possible. You may use this form or attach additional sheets:

Consent to Non-Statutory Extension of Village'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 Village 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 Village's response time for this request until: _____ (month, day, year).

Requestor's Signature	Date
-----------------------	------

(Complete both sides)

Records Located on Website

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

I hereby stipulate that, even if some or all of the records are located on a Village website, I am requesting that the Village 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
-----------------------	------

Overtime Labor Costs

Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.

Consent to Overtime Labor Costs

I hereby agree and stipulate to the Village using overtime wages in calculating the following labor costs as itemized in the following categories:

- 1. Labor to copy/duplicate
- 2. Labor to locate
- 3a. Labor to redact
- 3b. Contract labor to redact
- 6b. Labor to copy/duplicate records already on Village's website

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:	Date:
Requestor's Signature:	

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 Village.

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:	Date:
Requestor's Signature:	

Village of Pentwater

Summary of FOIA Procedures and Guidelines

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

1. How do I submit a FOIA request to the Village of Pentwater?

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Village of Pentwater must be submitted in writing.
- A request must sufficiently describe a public record to enable the Village 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 Village's website (www.pentwatervillage.org)
- Written requests can be made in person by delivery to any Village office or by mail.
- Requests can also be made by facsimile at 231-869-5120.
- A request may also be submitted by e-mail. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line and be sent to Clerk@pentwatervillage.org.

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

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

- Within 5 business days of receipt of a FOIA request the Village 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 Village will respond to your request in one of the following ways:
 - Grant the request.
 - Issue a written notice denying the request.
 - Grant the request in part and issue a written notice denying in part the request.
 - Issue a notice indicating that due to the nature of the request the Village needs an additional 10 business days to respond.
 - Issue a written notice indicating that the public record requested is available at no charge on the Village's website.
- If the request is granted, or granted in part, the Village will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the Village will require a deposit before processing the request.

3. What are the Village's fee deposit requirements?

- If the Village has made a good faith calculation that the total fee for processing the request exceeds \$50.00, the Village will require that you provide a deposit in the amount of 50% of the total estimated fee. When the Village 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 Village of your deposit.
- If the Village receives a request from a person who has not paid the Village for copies of public records made in fulfillment of a previously granted written request, the Village will require a deposit of 100% of the estimated processing fee before it begins to search for

the public record for any subsequent written request when all of the following conditions exist:

- the final fee for the prior written request is not more than 105% of the estimated fee;
 - the public records made available contained the information sought in the prior written request and remain in the Village's possession;
 - the public records were made available to the individual, subject to payment, within the time frame estimated by the Village to provide the records;
 - 90 days have passed since the Village 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 Village; and
 - the Village has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The Village 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 Village;
 - the Village 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 Village.

4. How does the Village calculate FOIA processing fees?

- A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Village because of the nature of the request in the particular instance, and the Village specifically identifies the nature of the unreasonably high costs.
- The Michigan FOIA statute permits the Village to assess and collect a fee for six designated processing components. The Village may charge for the following costs associated with processing a request:
 - Labor costs associated with searching for, locating and examining a requested public record.
 - Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
 - The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media.
 - The cost of duplication or publication, not including labor, of paper copies of public records.
 - Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
 - The cost to mail or send a public record to a requestor.
- Labor Costs
 - All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.
 - Labor costs will be charged at the hourly wage of the lowest-paid Village employee capable of doing the work in the specific fee category, regardless of who actually performs work.
 - Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- Non-paper Physical Media
 - The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.

- This cost will only be assessed if the Village has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- Paper Copies
 - Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets will reflect the actual cost of reproduction.
 - The Village may provide records using double-sided printing, if cost saving and available.
- Mailing Costs
 - The cost to mail public records will use a reasonably economical and justified means.
 - The Village may charge for the least expensive form of postal delivery confirmation.
 - No cost will be made for expedited shipping or insurance unless requested.

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

- The Village may waive or reduce the fee associated with a request when Village determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public.
- The Village will waive the first \$20.00 of the processing fee for a request if you submit an affidavit stating that you are:
 - indigent and receiving specific public assistance; or
 - if not receiving public assistance, stating facts demonstrating an inability to pay because of indigency.
- You are not eligible to receive the \$20.00 waiver if you:
 - have previously received discounted copies of public records from the Village twice during the calendar year; or
 - are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- An affidavit is a sworn statement. For your convenience, the Village has provided an Affidavit of Indigency form for the waiver of FOIA fees on its website.
- The Village will waive the fee for a nonprofit organization which meets all of the following conditions:
 - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
 - the request is made directly on behalf of the organization or its clients;
 - the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
 - the request is accompanied by documentation of the organization's designation by the State

6. How may I challenge the denial of a public record or an excessive fee?

- Appeal of a Denial of a Public Record
If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may file an appeal of the denial with Village President. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons you are seeking a reversal of the denial.
- Within 10 business days of receiving the appeal the Village President will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reversing the disclosure denial in part and upholding the disclosure denial in part.

Whether or not you submitted an appeal of a denial to the Village President, you may file a civil action in 27th Judicial Circuit Court within 180 days after the Village's final determination to deny your request. Should you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the Village acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1000.00

- **Appeal of an Excessive FOIA Processing Fee**
If you believe that the fee charged by the Village to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a fee reduction to the Village President. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Village President 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 Village President will respond to the written appeal.

Within 45 days after receiving notice of the Village President determination of the processing fee appeal, you may commence a civil action in 27th Judicial Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the Village acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.00.

Need more details or information?

This is only a summary of the Village of Pentwater's FOIA Procedures and Guidelines. For more details and information, copies of the Village of Pentwater's FOIA Procedures and Guidelines are available at no charge at any Village office and on the Village's website, www.pentwatervillage.org.