

# Freedom of Information Act

## POLICY



**February 2019**

Alpena-Montmorency Conservation District  
Freedom of Information Act Policy

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# ALPENA-MONTMORENCY CONSERVATION DISTRICT FREEDOM OF INFORMATION ACT POLICY

## DEPARTMENT POLICY

The Freedom of Information Act (FOIA), MCLA 15.231, et seq., provides that all persons 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. The ALPENA-MONTMORENCY CONSERVATION DISTRICT agrees that public access to the official acts of government is a necessary and proper element of a free society. **Therefore, it is the policy of the ALPENA-MONTMORENCY CONSERVATION DISTRICT to conduct its affairs in compliance with the Freedom of Information Act and further, to provide as much public access as possible to the public records of this agency.**

The Freedom of Information Act creates the right of all persons to inspect, copy, or receive copies of public records. The Act identifies categories of records that are exempt from disclosure. The Act also requires those requests for disclosure be made in writing. **Electronic requests are not accepted.** It is the policy of the Alpena-Montmorency Conservation District that any written request for records not exempt by a specific provision of the Act, or of another Act, will be provided within ten (10) business days after receipt unless there are extenuating circumstances, in which case the requested record will be provided within 20 business days after receipt with a one time 10 business day extension is taken. Oral requests for information are allowed at the monthly board meeting of the Alpena-Montmorency Conservation District; however, staff members should ask for oral requests to be reduced to writing and then respond to those requests consistent with this policy, if it is appropriate to do so. If the request remains an oral request, staff members are encouraged to respond consistent with policies and procedures regarding service to the public.

The Freedom of Information Act **does not** require the creation of a record or a summary of a record(s) and the department **will not** do so in response to a FOIA request.

## DEFINITIONS

- A. "Freedom of Information Coordinator" means *a designated member of the ALPENA-MONTMORENCY CONSERVATION DISTRICT.*
- B. "Person" means 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 correctional facility.
- C. "Public Record" means a writing prepared, owned, used, in the possession of, or retained by this department in the performance of an official function. Computer software is not a public record but information stored in a computer is considered a public record. A public record, if not exempt from disclosure under Section 13 of the Act, or of another Act, must be disclosed upon request of any person.

- D. Subpoena – A subpoena is an order of the court, which may require that records be produced. *A subpoena is not handled under FOIA.* Questions regarding the production of records under a subpoena should be addressed to Alpena-Montmorency Conservation District Board.
- E. "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording and includes letters, words, pictures, sounds or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.
- F. "Written Request" means a writing received by the department that asks for information and includes any writing received by mail.

### **FOIA COORDINATOR**

- A. The FOIA Coordinator (FC) for the ALPENA-MONTMORENCY CONSERVATION DISTRICT
  - 1. will accept, process, refer, grant or deny FOIA requests.
  - 2. will maintain such records as are required by law and policy.
  - 3. All FOIA questions will be referred to the FC.
  - 4. All questions and requests for assistance will be directed to the FC.
  - 5. FC will grant all FOIA requests meeting the requirements of the Act.
  - 6. FC may issue a time extension letter when necessary.
  - 7. FC may deny a FOIA request only if the requested record does not exist.

### **RECEIPT OF REQUEST AND RESPONSE**

Requests received shall be responded to by doing one of the following:

- 1. Granting the request.
  - 2. Issuing a written notice to the requestor denying the request.
  - 3. Granting the request in part and issuing a written notice to the requestor denying the request in part.
  - 4. Issuing a notice of a 10 business day extension. If this extension is taken, then by the end of the 10 business days, the request must be responded to with one of the first three choices above.
- A. Written requests for information will be date stamped on the **front** of the document upon their arrival. If a date stamp is not available, handwrite the received date on the **front** of the document. It **must** be legible when copies are made.
  - B. The Act provides a right to inspect records by the requestor and that the public body must furnish reasonable accommodation for the requestor. The public body must also make reasonable rules necessary to protect the public records

from loss, unauthorized alteration, mutilation, or destruction and to prevent excessive and unreasonable interference in discharging its functions. It is AMCD's policy that:

1. Anyone requesting inspection will be accompanied at all times;
2. No person shall be given access to records through a computer terminal, rather the records will be printed and given to the requestor for review. Information requiring redaction will be redacted and a photocopy made prior to the requestor's review.
3. Costs may not be charged for surveillance, unless the requestor is reviewing **original** records or if the records must be reviewed for exempt information prior to the review.
4. Review will occur during normal business hours.
5. The review will occur at a time and for a duration that has the least disruption to normal business activities.
6. The review will occur at the normal location of the records or at another location to be determined by AMCD.

## **RECORD RETENTION**

- A. FOIA Coordinators will retain FOIA requests in their files for 2 years.
  1. For requests that are granted or denied, the request, the reply notice, any extension notice and any billing worksheet must be retained. Either a copy of the documents provided or an inventory listing the records shall be retained.
  2. For requests that are partially granted (information redacted), it will be necessary to retain the redacted page(s) actually released.

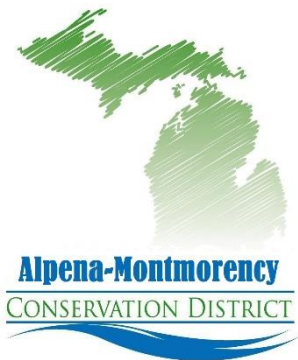
## **FEES AND BILLING**

- A. FOIA permits charging a fee for the actual incremental cost of duplicating or publishing a record, including labor directly attributable to those tasks. Labor will be billed at a rate that includes the wages, taxes and 50% of fringe benefits for the District's office staff. **A minimum deposit of \$20.00 is required to initiate a FOIA request.** If it is estimated that the cost to fulfill a FOIA request will be \$50.00 or more, then a deposit of 50% of the estimated cost is required. Final payment must be made before the requested information is delivered.
- B. Potential fees are calculated by the sum of the cost of:
  1. labor for the search, location, and examination of public records;
  2. labor for the review of public records and separation and deletion of exempt from nonexempt material;
  3. nonpaper physical media (e.g. CD, DVD, flash drive)
  4. duplication and publication of public records at a cost of \$.10 per page for 8-1/2 x 11 and 8-1/2 x 14 sized paper;

5. Labor for the duplication or publication of public records;
  6. Actual cost of mailing public records in a reasonably economical and justifiable manner.
  7. Labor costs should be billed in 15 minute increments
- C. Additional consideration
1. AMCD can bill for the time spent monitoring requestors inspect an original record if they request to review the record in person. Costs for time to monitor will be based on the hourly rate of the paid person performing the required task plus 50% of fringe benefits.
  2. Any request for record inspection and any request to make their own copies should be brought to the attention of the FC.
  3. Costs for time to duplicate records will be based on the hourly rate plus 50% of the benefits of the paid person performing the required task. Note: You may also charge for copying, redacting and re-copying documents for inspection.
  4. Costs change yearly with changes in salaries
  5. Under FOIA, if someone claims to be indigent, the public body must wave the first \$20.00 of costs beyond what has already been waived in these Guidelines. Contact the FOIA office for a copy of the necessary affidavit to be signed by the requestor.
  6. There will be no charge for labor directly associated with redaction if it is known that the same records had previously been redacted and the redacted version is still available.

### **UPDATE AND REVISION**

The responsibility to update and revise these guidelines rests with the Alpena-Montmorency Conservation District Board.



## Attachment A

### FOIA APPROVAL COVER LETTER

Date

Name  
Address  
City, State Zip

Dear :

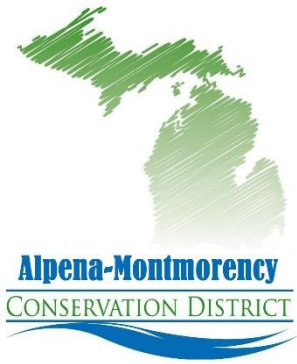
Your request for records dated (date) under the Freedom of Information Act was received in our office on (date). You requested \_\_\_\_\_. (*Attach a copy of the request if lengthy.*)

Your request is granted and enclosed are the existing, non-exempt records responsive to your request.

Even though the Freedom of Information Act permits us to charge you for our costs in copying and mailing this information, we are sending it free of charge due to the limited number of pages.

Sincerely,

District Manager  
Alpena-Montmorency Conservation District



**Attachment B**

**FOIA "NO RECORD" LETTER**

Date

Name  
Address  
City, State Zip

Dear :

Your request for records dated (date) under the Freedom of Information Act was received in our office on (date). You requested \_\_\_\_\_

\_\_\_\_\_"  
*(Attach a copy of the request if lengthy.)*

After a diligent search, I have not been able to locate the records you seek with the information given. Pursuant to provisions of the Freedom of Information Act, and based on my knowledge, information, and belief, I certify that the record sought does not exist as described or by any other name reasonably known to me and your request is therefore denied.

If you have any additional information regarding the description, location, content or date of the record you seek, please submit another request so that I can again search on your behalf.

Sincerely,

District Manager  
Alpena-Montmorency Conservation District



**Attachment C**

**FOIA EXTENSION LETTER**



Date

Name  
Address  
City, State Zip

Dear :

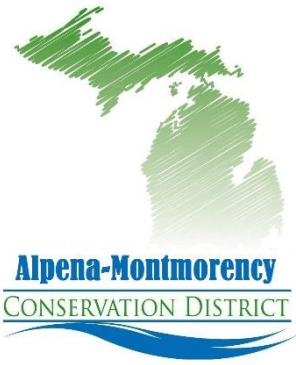
Your request for records dated (dated) under the Freedom of Information Act was received in our office on (date). You requested “\_\_\_\_\_”. “  
(Attach a copy of the request if lengthy.)

I am not able to respond to your request within the ten business day time limit set forth in the act because \_\_\_\_\_ (reason)\_\_\_\_\_.

I am therefore extending the response time frame and will respond to your request on or before (date).

Sincerely,

District Manager  
Alpena-Montmorency Conservation District



**Attachment D**

**FOIA CERTIFICATION LETTER**

**ALPENA-MONTMORENCY CONSERVATION DISTRICT**

1900 M-32 West  
Alpena, Michigan 49707

**RE: FREEDOM OF INFORMATION ACT REQUEST OF: \_\_\_\_\_**  
(DATE)

**CERTIFICATION**

The attached records, generally described as

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ,

are, based on my knowledge, information, and belief, true and correct copies of original records on file in the office of the Michigan Department of Agriculture & Rural Development.

\_\_\_\_\_  
(CERTIFYING OFFICIAL)

seal

\_\_\_\_\_  
(DATE)





**Attachment F**

**FOIA PARTIAL DENIAL LETTER**

Date

Name  
Address  
City, State Zip

Dear :

Your request for records dated (date) under the Freedom of Information Act was received in our office on (date) . You requested “\_\_\_\_\_.” *(Attach a copy of the request if lengthy.)*

Your request is granted in part and the following record(s) is/are enclosed:  
\_\_\_\_\_.

Even though the Freedom of Information Act permits us to charge you for our costs in copying and mailing this information, we are sending it free of charge due to the limited number of pages.

However, part of the information you requested is denied as it is exempt from disclosure under \_\_\_\_\_(section)\_\_\_\_\_, which exempts (identify exempt material). Therefore, that/those record(s) has/have been removed or redacted from the enclosed records.

Sincerely,

District Manager  
Alpena-Montmorency Conservation District



**Alpena-Montmorency**  
CONSERVATION DISTRICT

**Attachment G**

**FOIA FINAL AMOUNT OWED NOTICE**

Date

Name  
Address  
City, State Zip

Dear \_\_\_\_\_:

Your request for records dated (date) under the Freedom of Information Act (FOIA) was received in our office on \_\_\_\_\_. You requested \_\_\_\_\_.  
\_\_\_\_\_. *(Attach a copy of the request if lengthy.)*

On \_\_\_\_\_ you were sent a notice granting your request as to existing, non-exempt records responsive to your request as described in your attached letter. Additionally, pursuant to FOIA, you were provided with an estimate of the cost of searching for, reviewing and copying records and notified of the required deposit.

On \_\_\_\_\_, we received your deposit of \$\_\_\_\_\_ and began to compile our response. We have determined actual costs of completing the search for, copying and mailing of the requested records. Please see the attached Response Billing Worksheet, Form AG O53, for breakdown of the actual costs to complete this request.

The total cost of completing this request was \$\_\_\_\_\_; less the \$\_\_\_\_\_ deposit already received, your final balance is \$\_\_\_\_\_. Once your final payment has been received, the records will be sent to you. Your check should be made out to State of Michigan and sent to the ALPENA-MONTMORENCY CONSERVATION DISTRICT, PO Box 30776, Lansing, MI 48909. **Please reference FOIA-\_\_\_\_\_ on the check.** *(Insert appropriate index number)*

Sincerely,

District Manager  
Alpena-Montmorency Conservation District

**ALPENA-MONTMORENCY CONSERVATION DISTRICT  
FREEDOM OF INFORMATION ACT  
RESPONSE BILLING WORKSHEET**

If payment is required as indicated in the accompanying notice, requested information will not be released until the payment described below is received. Please call the AMCD staff member who signed the notice or return this form if you decide you do not wish to receive the records. After 90 days it will be assumed that you no longer require the requested records.

Requestor's Name and Address:		
Bill Calculation	Amount	
<b>LABOR:</b> Searching for, locating, and examining the material: No. of Hours: ____ x Wage Rate (including up to 50% for fringes) <u>\$0.00</u> Reviewing the material, including separating exempt from non-exempt material: No. of Hours: 0.00 x Wage Rate (including up to 50% for fringes) <u>\$0.00</u>	\$ _____	
<b>POSTAGE:</b> (Actual Cost)	\$ _____	
<b>DUPLICATING:</b> Labor: No. of Hours: 0.00 x Wage Rate (including up to 50% for fringes) <u>\$0.00</u>  Paper: No. of Pages: ____ x Copying Rate \$.10 per page	\$ _____	
<b>NON PAPER PHYSICAL MEDIA: Describe (e.g. CDs, DVDs, flash drives, etc.)</b>	\$ _____	
Make check (business/personal) or money order payable to: Alpena-Montmorency Conservation District  Mail Check/Money Order to: Alpena-Montmorency Conservation District; 1900 M-32 West Alpena, MI 49707  <b>Please note this number _____ on your check or return a copy of this invoice with your payment.</b>	<b>TOTAL</b> \$ _____	
*MINIMUM \$20.00	<b>DEPOSIT*</b> \$ _____	
For Internal Use Only		
REQUESTED INFORMATION TO BE: <input type="checkbox"/> Mailed upon receipt of final payment  <input type="checkbox"/> Paid and picked up in person	Check / M.O. #  From:	<b>BALANCE TO BE PAID*</b> \$ _____
Date Payment Received:	Date Documents Mailed:	Date Documents Picked Up:

Alpena-Montmorency Conservation District  
1900 M-32 West • Alpena, MI 49707