

Category: 100 – GENERAL/ADMINISTRATIVE

Number: 132

Subject: ENHANCED ACCESS TO PUBLIC RECORDS POLICY

This policy is established pursuant to the authority of the Enhanced Access to Public Records Act, 1996 P.A. 462; Amended by 1998 P.A. 550, and the Freedom of Information Act, 1976 P.A. 442.

1. DEFINITIONS

(a) “Enhanced access” means a public record's immediate availability for public inspection, purchase, or copying by digital means. Enhanced access does not include the transfer of ownership of a public record.

(b) “Geographical information system” means an informational unit or network capable of producing customized maps based on a digital representation of geographical data.

(c) “Operating expenses” includes, but is not limited to, a public body's direct cost of creating, compiling, storing, maintaining, processing, upgrading, or enhancing information or data in a form available for enhanced access, including the cost of computer hardware and software, system development, employee time, and the actual cost of supplying the information or record in the form requested by the purchaser.

(d) “Person” means that term as defined in section 2 of the freedom of information act, [1976 PA 442](#). *Excerpt: “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 state or county correctional facility in this state or any other state, or in a federal correctional facility.*

(e) “Public body” means that term as defined in section 2 of the freedom of information act, [1976 PA 442](#). *Excerpt: “Public body” means any of the following: (i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof. (ii) An agency, board, commission, or council in the legislative branch of the state government. (iii) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof. (iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority. (v) The judiciary, including the office of the county clerk and employees thereof when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.*

(f) “Public record” means that term as defined in section 2 of the freedom of information act, [1976 PA 442](#). *Excerpt: “Public record” means 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. Public record does not include computer software. This act separates public records into the following 2 classes: (i) Those that are exempt from disclosure under section 13. (ii) All public records that are not exempt from disclosure under section 13 and which are subject to disclosure under this act.*

(g) “Reasonable fee” means a charge calculated to enable a public body to recover over time only those operating expenses directly related to the public body's provision of enhanced access.

(h) “Software” means a set of statements or instructions that when incorporated in a machine-usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result.

(i) “Third party” means a person who requests a geographical information system or output from a geographical information system under this act. However, third party does not include a person for whom a fee authorized under this act is waived in accordance with an intergovernmental agreement described in 1996 PA 462 section 3.

(j) “data sharing agreement” means an agreement in accordance with a written intergovernmental agreement as defined in section 3(d) of 1996 PA 462.

2. AUTHORIZATION

A. Pursuant to 1996 P.A. 462, all St. Clair County government public bodies may provide enhanced access for the inspection, copying, or purchasing of a public record that is not confidential or otherwise exempt by law from disclosure. [Sec. 3].

B. This policy does not require a public body to provide enhanced access to any specific public record. [Sec. 3(6)].

C. County department heads, coordinators, agencies, boards, commissions and councils legally responsible for the creation, preparation, ownership, custody, control, maintenance, preservation, guardianship, retention, possession or use of a public record shall select which public records may be made available through enhanced access. Elected County Officers may provide enhanced access at their discretion.

D. Principles and policies to be considered in determining which public records shall be made available through enhanced access include, but are not limited to the following:

1. Management principles applied to information resources should be the same as those applied to other governmental resources.
2. Elected officials, department heads, coordinators, agencies, boards,

commissions, councils and other county public bodies legally responsible for the creation, preparation, ownership, custody, control, maintenance, preservation, guardianship, retention, possession or use of a public record have the responsibility, authority and accountability for the management of public record information.

3. Information resources investments must be driven by legal, programmatic and governmental requirements.

4. St. Clair County government, in trust for the people of St. Clair County, has a duty to ensure ownership of information products and county created intellectual property is protected and maintained.

3. FEES

A. It is the policy of St. Clair County to charge a reasonable fee for providing enhanced access to a public record. [Sec. 3(1)(b)]

B. It is the policy of St. Clair County to charge a reasonable fee for providing access to:

(i) A geographical information system.

(ii) The output from a geographical information system.

C. Except as otherwise provided by act or statute, the individual departments shall establish a proposed reasonable fee(s) for: 1) each public record made available for enhanced access; 2) access to a geographical information system; 3) the output from a geographical information system. Proposed fee structures shall include the following classifications:

- A) St. Clair County Agencies, Departments, and Offices
- B) Governmental entities in the following sub-classifications:
 - a) Michigan Municipal Corporations
 - b) Michigan State Agencies
 - c) Departments
 - d) Offices
- C) Agencies, Departments, and Offices of the United States
- D) Agencies, Departments, Offices, and Municipal Corporations (or their equivalents) of other States of the United States
- E) Agencies, Departments, and Offices of foreign governments and their political subdivisions
- F) Non-Profit Corporations
- G) For profit corporations and other commercial enterprises
- H) Schools, Universities, and Colleges and their students
- I) General Public.

The proposed fee(s) for Enhanced Access shall be presented to and reviewed by the Information Systems Advisory Committee. Any recommendations from the review process shall accompany the fee proposal to the Board of Commissioners. The Board of Commissioners must approve fee structures before becoming effective.

D. Except as otherwise provided by act, statute, or data sharing agreement, all persons shall be charged the reasonable fee approved by the Board of Commissioners for enhanced access to a public record or for access to a geographical information system or the output from a geographical information system.

E. St. Clair County may furnish access or enhanced access without charge or at a reduced charge if the Board of Commissioners approves that a waiver or reduction of fee is in the public interest because access or enhanced access can be considered as primarily benefiting the general public. Examples may include, but are not limited to, instances when:

1. The information is critical to public health or safety;
2. The information is required for non-profit research purposes such as academic or public interest research;
3. The information is required to meet legal, programmatic or governmental objectives;
4. The information explains the rights, entitlements and/or obligations of individuals;
5. The cost of administering the fees would exceed the revenue to be collected;
6. The reasonable fee established would have a serious detrimental impact on the financial position of particular groups or classes of users;
7. The reasonable fee established would limit the number of users enough to compromise achieving program or other governmental objectives.

F. Waiver or fee reductions shall be decided by the elected official, department head, coordinator, agency, board, commission, council other county public body legally responsible for the creation, preparation, ownership, custody, control, maintenance, preservation, guardianship, retention, possession or use of the public record(s) in question. Except in the case of elected officers, the waiver or fee reductions shall be approved by the Board of Commissioners prior to the award of that waiver or reduction.

4. DISCLAIMER

A. Recipients of access or enhanced access receive all information "AS IS". The County of St. Clair County, its officers, officials, employees, agents, volunteers, contractors or its public bodies, make no warranties of any kind, including but not limited to warranties of accuracy, fitness for a particular purpose, or of a recipient's right of use. Recipients are solely responsible for investigating, resisting, litigating and settling such complaints, including the payment of any damages or costs, unless the St. Clair County Board of Commissioners, by resolution adopted by a majority of those elected and serving, elects to participate in the process at the County's expense.

B. Except for the Board of Commissioners, by resolution adopted by a majority of those elected and serving, no officer, official, employee, agent, volunteer, contractor or other person or public body may make any representation or warranty on behalf of the County or one of its public bodies.

5. **CONTROLLER/CAO LEGAL COUNSEL REVIEW:** The Controller/CAO shall sign off on all new and amended policies as to substance. The County Civil Counsel shall sign off on all new and amended policies as to legal content. These signoffs shall accompany and be completed prior to submission to the Board of Commissioners for consideration and approval.

Adopted: September 27, 2000