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ENHANCED ACCESS TO PUBLIC RECORDS POLICY

January 15, 2002
POLICY #2002-23

PURPOSE: This policy is adopted pursuant to the authority of Section 3(5) of the "Enhanced Access to Public Records Act," Act 462 of the Public Acts of 1996, MCLA 15.441 et seq., as amended. The purpose of the Policy is: 1) to establish the definitions and operation provisions for a policy on enhanced access to public records, 2) to authorize the establishment of a fee schedule and to establish conditions for its waiver, and 3) to set forth a disclaimer as to all express and implied warranties regarding the access to or the use of public records for which enhanced access is provided.

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 upon a digital representation of geographical data.
- C. "Person" means that term as defined in section 2 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.232 of the Michigan Compiled Laws.
- D. "Public Body" means that term as defined in section 2 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.232 of the Michigan Compiled Laws.
- E. "Public Record" means that term as defined in section 2 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.232 of the Michigan Compiled Laws.
- F. "Software" means that term as defined in section 2 of the enhanced access to public records act, Act No. 462 of the Public Acts of 1996, being section 15.442 of the Michigan Compiled Laws.
- G. "Operating expenses" include, but are not limited to, the direct cost of purchasing, creating, compiling, storing, maintaining, processing, upgrading, or

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enhancing information or data in a form available for enhanced access, including the cost of computer hardware and software, systems development, employee time, and the actual cost of supplying the information or record in the form requested by the purchaser.

- H. “Reasonable fee” means a charge calculated to enable Muskegon County to recover over time those operating expenses directly related to the cost of providing enhanced access.

2. AUTHORIZATION

- A. Pursuant to 1996 P.A. 462, all Muskegon 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(1)(a); Sec.3(3)].
- B. This policy does not require a public body to provide enhanced access to any specific public record. [Sec. 3(4)].
- C. County elected officials, department heads, 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 through enhanced access.
- 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, 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. Muskegon County government, in trust for the people of Muskegon County, has a duty to ensure ownership of information products and county created intellectual property is protected and maintained.

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3. FEES

- A. It is the policy of Muskegon County to charge a reasonable fee for providing enhanced access to a public record. [Sec. 3(1)(b)].
- B. It is the policy of Muskegon County to charge a reasonable fee for providing access to:
 - (i) A geographical information system.
 - (ii) The output from a geographical information system.
- C. "Reasonable fee" means a charge calculated to enable Muskegon County to recover over time only those operating expenses directly related to the public body's provision of enhanced access.
- D. "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, systems development, employee time, and the actual cost of supplying the information or record in the form requested by the purchaser.
- E. Except as otherwise provided by act or statute, the Fiscal Services Division shall establish a proposed reasonable fee(s) for each public record made available for enhanced access or for access to a geographical information system or the output from a geographical information system. The proposed fee(s) shall be presented to and approved by the Board of Commissioners before they shall be effective.
- F. Except as otherwise provided by act or statute, 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.
- G. A public body may furnish access or enhanced access without charge or at a reduced charge if the public body determines 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;

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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.
- H. Waiver or fee reductions shall be decided by the elected official, department head, 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. 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 Muskegon, 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 Muskegon 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.

CERTIFICATION

Motion by Baade, supported by Frye, to approve the resolution establishing Muskegon County Enhanced Access to Public Records Policy in accordance with Enhanced Access to Public Records Act, 1996 P.A. 462.

Ayes: Baade, Bennett, Frye, Gill, Kobza, McMurray, Moulatsiotis, Hulka
Nays: None

Motion carried.