

County of Montcalm

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.

1. Definitions

"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.

"Geographical Information System" means an informational unit or network capable of producing customized maps based upon a digital representation of geographical data.

"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.

"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.

"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.

"Software" means that term as defined in section 2 of the enhanced access to public records act, Act No. 462 if the Public Acts of 1996, being section 15.442 of the Michigan Compiled Laws.

2. Authorization

- A. Pursuant to 1996 P.A. 462, all Montcalm 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 a specific record, if that public body has not established an enhanced access policy in accordance with Section 3(3) of 1996 P.A. No. 462, being section 15.443(3) with respect to that specific public record.

- 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. Montcalm County government, in trust for the people of Montcalm 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 Montcalm County to charge a reasonable fee for the following: [Sec. 3(1)(b)].
 - (i) Providing enhanced access to a public record.
 - (ii) Providing access to a geographical information system.
 - (iii) Providing output from a geographical informational system.
- B. **"Reasonable fee"** means a charge calculated to enable Montcalm County to recover overtime for only those operating expenses directly related to the public body's provision of enhanced access. See adopted County of Montcalm Fee Schedule.
- 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, systems development, employee time, and the actual cost of supplying the information or record in the form requested by the purchaser.
- D. Except as otherwise provided by act or statute, the Board of Commissioners shall approve proposed reasonable fee(s) for enhanced access or for access to a geographical information system or the output from a geographical information system before they shall become effective.

E. 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.

F. 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 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.

G. Waiver or fee reductions shall be decided by the elected official, department head, agency, board, commission, council or 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.

4. Disclaimer

A. Recipients of access or enhanced access receive all information "AS IS". Montcalm 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 Montcalm 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 Montcalm County or one of its public bodies.