

CITY OF BATTLE CREEK ENHANCED ACCESS TO PUBLIC RECORDS POLICY

1. **PURPOSE:** This policy is established pursuant to the authority of the Enhanced Access to Public Records Act, 1996 P.A. 462. The policy is intended to outline procedures for providing certain records to the public and establishing a fee for such records as allowable by law.

2. **AUTHORITY:** Battle Creek City Commission, Resolution 173 (passed June 16, 2015).

3. **APPLICATION:** This policy applies to all departments, elected official offices, and agencies of the City of Battle Creek.

4. **RESPONSIBILITY:** City of Battle Creek 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 records may be made public through enhanced access.

5. **DEFINITIONS:**

5.1 “Enhanced Access” means a public record’s availability for public inspection, purchase or copying by digital means. Enhanced access does not include the transfer of ownership of a public record.

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

5.3 “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.

5.4 “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.

5.5 “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.

5.6 “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.

5.7 “Reasonable Fee” means a charge calculated to enable City of Battle Creek to recover only those operating expenses directly related to the public body’s provision of enhanced access.

5.8 “Operating Expenses” includes, but is not limited to, City of Battle Creek’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’s development, employee time and the actual cost of supplying the information or record in the form requested by the purchaser.

6. POLICY:

6.1 Authorization

6.1.1 Pursuant to Act No. 462 of the Public Acts of 1996, all City of Battle Creek 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 full disclosure. [Sec. 3(1)(a); Sec. (3) of the Enhanced Access to Public Records Act, 1996 P.A. 462].

6.1.2 This policy does not require a public body to provide enhanced access to any specific public record. [Sec. 3(4) of the Enhanced Access to Public Records Act, 1996 P.A. 462].

6.1.3 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:

6.1.3(a) Management principles applied to information resources should be the same as those applied to other governmental resources.

6.1.3(b) Elected officials, department heads, agencies, boards, commissions, councils and other 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.

6.1.3(c) Information resources investments must be driven by legal, programmatic and governmental requirements.

6.1.3(d) City of Battle Creek government has a duty to ensure ownership of information products and City created intellectual property is protected and maintained.

6.1.4 Access to or output from a geographical information system shall be made available only in accordance with subsections (1), (2), and (3). Except as otherwise provided in subsections (1), (2), and (3), this act does not limit the inspection and copying of a public record pursuant to the Freedom of Information Act, 1976, PA 442, MCL 15.231 to 15.246. This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or where the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute. MCL 15.443 (4).

6.1.5 An individual elected or appointed to a board or governing body of a city, village, township, or county shall not have an ownership interest in, or accept compensation from a person who sells information that is obtained from a public record of that city, village, township, or county. MCL 15.444.

6.2 Fees

6.2.1 It is the policy of City of Battle Creek to charge a reasonable fee for providing enhanced access to selected public records [Sec. 3(1)(b) of the Enhanced Access to Public Records Act,

1996 P.A. 462]. It is not the intent of this policy to sell actual data maintained as public records, rather it is intended as a reasonable method to recovering costs for providing enhanced records access to the data in the various forms available through technological enhancements., i.e. online access via the internet, direct dial-in service to a city computer, server, etc., magnetic disc, magnetic tape, paper products and labels generated by computerized means.

6.2.2 City of Battle Creek may furnish access or enhanced access without a charge, if in the city's determination a waiver or reduction of the fee is in the public interest because access or enhanced access can be considered as primarily benefitting the general public. Examples of such instances might include, but are not limited to:

6.2.2(a) The information is critical to public health or safety.

6.2.2(b) The information is required for non-profit research purposes such as academic or public interest research.

6.2.2(c) The information is required to meet legal, programmatic or governmental objectives.

6.2.2(d) The information explains the rights, entitlements and or obligations of individuals.

6.2.2(e) The cost of administering the fees would exceed the revenue to be collected.

6.2.2(f) The reasonable fee established would have a serious detrimental impact on the financial position of particular groups or classes of users.

6.2.2(g) The reasonable fee established would limit the number of users enough to compromise achieving program or other governmental objectives.

6.2.3 The City of Battle Creek Clerk's Office shall establish a reasonable fee(s) for enhanced access to a public record or for access to any proposed Geographical Information System or the output from a Geographical Information System.

6.2.4 Waiver or fee reductions for enhanced access to public records shall be decided by the elected official, department head, agency, board, commission, council, or other city 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 City Commissioners prior to such waiver or reduction.

6.3 Disclaimer

6.3.1 Recipients of access or enhanced access receive all information as is. City of Battle Creek, 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 the accuracy or suitability of data accessed and any complaints that may arise from the use of such data.

6.3.2 Unless authorized by resolution of the City of Battle Creek Commission, no other officer, employee, agent, volunteer, contractor or other person or public body may make any representation or warranty on behalf of the City of Battle Creek, or one of its public bodies.

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REBECCA L. FLEURY, CITY MANAGER