

2003-15
RESOLUTION TO ADOPT ENHANCED ACCESS POLICY

A resolution made and adopted at a regular meeting of the Clinton County Board of Commissioners, County of Clinton, State of Michigan, held at 100 East State Street St. Johns, MI 48879, on August 26, 2003, at 9:00 A.M.

PRESENT: David Pohl, Larry E. Martin, John W. Arehart, Mary L. Rademacher,
Robert E. Showers, Virginia Zeeb and Claude A. Vail.

ABSENT: None

The following Resolution was offered by Commissioner Rademacher and seconded by Commissioner Vail.

WHEREAS, Clinton County ("County") has expended considerable resources developing its geographical information system and output from its geographical information system; and

WHEREAS, Act 462 of the Public Acts of 1996 ("Enhanced Access to Public Records Act") authorizes municipalities to provide enhanced access to public records upon authorization of the County; and

WHEREAS, the Enhanced Access to Public Records Act further provides that the County must adopt a policy before providing enhanced access to members of the general public.

NOW THEREFORE, be it resolved by the Clinton County Board of Commissioners, Clinton County, Michigan that the attached Clinton County Enhanced Access to Public Records Policy is hereby adopted in accordance with the Enhanced Access to Public Records Act, 1996 PA 462.

ADOPTED:

YEAS: Seven

NAYS: Zero

STATE OF MICHIGAN)
)
COUNTY OF CLINTON)

I, the undersigned, the duly qualified and acting County Clerk of Clinton County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the County Board of Commissioners of said County at a regular meeting held on the 26th day of August 2003.

Diane Zuker
Clinton County Clerk

CLINTON COUNTY POLICY ON ENHANCED ACCESS TO PUBLIC RECORDS
(Adopted: August 26, 2003)

I. PURPOSE:

A. 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, MCL 15.441 et seq., as amended.

B. The purpose of the Policy includes the following:

1. Establishing definitions and operational provisions for a policy on enhanced access to public records;
2. Authorizing the establishment of a fee schedule and to establish conditions for its waiver; and
3. Setting forth a disclaimer as to all express and implied warranties regarding access to or the use of public records for which enhanced access is provided.

II. 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. "Operating expenses" include, but are not limited to, 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, Act No. 442 of the Public Acts of 1976, MCL 15.232, as amended.

E. “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, MCL 15.232, as amended.

F. “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, MCL 15.232, as amended.

G. “Reasonable fee” means a charge calculated to enable Clinton County to recover over time only those operating expenses directly related to the public body’s provision of enhanced access.

H. “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, MCL 15.442, as amended.

III. OPERATIONAL PROVISIONS

A. Pursuant to the provisions of the Enhanced Access to Public Records Act, Clinton County 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.

B. This policy does not require Clinton County to provide enhanced access to any specific public record, if the public record is not available through the Clinton County enhanced access system.

C. The Clinton County Board of Commissioners, pursuant to the recommendations of the Clinton County Administrator, shall determine which public records may be made available 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 public record and information resources will be consistent with those applied to other Clinton County resources, and will be consistent with the requirements of law.

2. Elected officials, department heads, agencies, boards, commissions, councils and other Clinton County public bodies legally responsible for the creation, preparation, custody, control, maintenance, preservation, guardianship, retention, possession or use of public records will continue to have the responsibility, authority and accountability for the management of public record

information, consistent with county policies therefore, including this Policy and the Clinton County Freedom of Information Act Policy.

3. Information resource investments will be driven by legal and programmatic principles and by principles of sound financial management.

4. The Clinton County Board of Commissioners will ensure that the ownership of information products and County-created intellectual property is protected, maintained and enhanced.

IV. FEES

A. It is the policy of Clinton County to charge a reasonable fee for providing enhanced access to a public record pursuant to this Policy.

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

1. A geographical information system;

2. Output from a geographical information system;

3. Such other public records as to which Clinton County may later provide enhanced access by resolution of the County Board of Commissioners.

C. Except as otherwise provided by act or statute, the Clinton County Administrator shall recommend and the Clinton County Board of Commissioners shall approve reasonable fee(s) for enhanced access to selected public record(s) or for access to a geographical information system or the output from a geographical information system, before those fees shall become effective.

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

E. Clinton County may furnish access or enhanced access without charge or at a reduced charge in accordance with a written agreement if the Clinton County Administrator shall recommend and the Clinton County Board of Commissioners shall determines that a waiver or reduction of fees 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. Release of the information for no cost or at a reduced cost is critical to public health, safety or welfare;
2. The information is required to meet legal, programmatic or Clinton County governmental objectives;
3. The information explains the rights, entitlement and/or obligations of individuals;
4. The cost of administering the fees would exceed the revenue to be collected;
5. The reasonable fee established would sufficiently limit the number of users to compromise achieving program or other Clinton County governmental objectives.

F. Upon authorization by the Clinton County Board of Commissioners, the Clinton County Administrator or his/her designee may enter into agreements with other public bodies to provide enhanced access to public records, to provide enhanced access to a geographical information system, or to obtain output from a geographical information system, at a reduced fee or at no fee, in accordance with Section 3 of the Enhanced Access to Public Records Act.

V. DISCLAIMER OF ALL WARRANTIES

A. Recipients of access or enhanced access to Clinton County records, to any Clinton County geographical information system or to any output from any Clinton County geographical information system receive access and all public records and information "AS IS". Clinton County, the Clinton County Board of Commissioners, and their officers, officials, employees, and agents make no warranties of any kind, whether express or implied, including but not limited to warranties of accuracy, ownership, title, fitness for a particular purpose, or as to a recipient's right to use such public records or information. Recipients are solely responsible for investigating, responding to, litigating and settling all claims with regard to the use or access to all such enhanced public records, information and systems, and agree as a condition of seeking and obtaining enhanced access to such enhanced public records information an systems to protect, indemnify, and hold Clinton County harmless against any and all such claims, including the payment of any damages, costs, or attorneys fees.

B. Except for the County 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 Clinton County or one of its public bodies.

V. SEVERABILITY.

- A. If any provision of this Policy is held to be in conflict with any applicable statute or rule of law or is otherwise held to be unenforceable for any reason whatsoever, such circumstance shall not have the effect of rendering any other provision or provisions of this Policy invalid, inoperative, or unenforceable to any extent whatsoever.