



ENHANCED ACCESS TO PUBLIC RECORDS POLICY

Policy No. 2019-05

This policy is established pursuant to the authority of the Enhanced Access to Public Records Act, 1996 P.A. 462, MCL 15.441 et seq.

1. DEFINITIONS

- A. "City" means the City of Evert, Michigan, a Michigan municipal corporation.
- B. "Enhanced access" means a public record's immediate availability for public inspection, purchasing or copying by digital means. It does not include the transfer of ownership of a public record.
- C. "Geographical information system (herein called "GIS")" means an informational unit or network capable of producing files, data, documents, images or customized maps based upon a digital representation of geographical data.
- D. "Operating expenses" include, but are not limited to, the City'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. "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.
- F. "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.
- G. "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.
- H. "Reasonable fee" means a charge calculated to enable a public body to recover, over time, only those operating expenses directly related to its provision of enhanced access.
- I. "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.

J. "Third Party" means a person who requests a GIS or output from a GIS under this policy. However, third party does not include a person for whom a fee authorized under this policy is waived in accordance with an intergovernmental agreement described in section 3G.

2. AUTHORIZATION

A. Pursuant to 1996 P.A. 462, all City governmental 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.

B. This policy does not require a public body to provide enhanced access to any specific public record.

C. The City's elected officials, department heads, agencies, boards, commissions and councils of the City 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.

D. This policy does not limit the inspection and copying of a public record pursuant to the Freedom of Information Act, Act No. 442 of the Public Acts of 1976.

E. 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 will be driven by legal, programmatic and governmental requirements.

4. The City's government, in trust for the people of Evart, has a duty to ensure ownership of information resources and that its intellectual property is protected and maintained.

5. Determination by City staff or officials to restrict or deny access to certain information deemed sensitive, including but not limited to information identifying critical infrastructure, private information, or information or data protected by federal, state or local laws.

3. FEES

- A. It is the policy of the City to charge a reasonable fee for providing enhanced access to a public record.
- B. It is the policy of the City to charge a reasonable fee for providing access to the output from a GIS.
- C. Except as otherwise provided by law, the City's Information Technology Department shall develop proposed reasonable fees for enhanced access to a geographical information system and the output from a GIS. The proposed fees shall be approved by the City Council before they shall be effective.
- D. Except as otherwise provided by law or this policy, all persons shall be charged the reasonable fees approved by the City Council for the output from a GIS.
- E. Notwithstanding anything in this policy, the City may continue to provide, in its discretion, access to its website applications with certain GIS and GIS output functions to the general public at no charge.
- F. The City may provide another public body with output from its GIS for the official use of that other public body, without charging a fee to that other public body, if the output from the system is provided in accordance with a written intergovernmental agreement that conforms with Section 3(1)(d) of the Enhanced Access to Public Records Act (MCL 15.443(l)(d)), and the other public body complies with the other requirements of Section 3(l)(d) as it relates to collection and payment of fees to the City.
- G. This policy 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.
- H. An individual elected or appointed to a board or the governing body of the City shall not have an ownership interest in, or accept compensation from, a person who sells information that is obtained from a public record of the City. However, this does not include compensation from the City.

4. ACCESS TO CRITICAL INFRASTRUCTURE INFORMATION

General and Enhanced Access to critical infrastructure information, such as the location of buried and aboveground water and sewer infrastructure, will be limited based on guidelines developed by the **City's Department of Public Works (DPW)** in accordance with its vulnerability assessment strategy. The City may release limited quantities and formats of information on an as needed basis to the following types of applicants:

- A. Other agencies, departments, employees or contractors that provide similar services, including public health, public safety, and public infrastructure, or that assist the **DPW** in daily performance of activities.

B. Other public or private agencies or individuals with a specific need for the information for analysis and/or decision-making purposes for specific projects requiring limited access to critical infrastructure information for development or connection purposes.

Formats and quantities of critical infrastructure information released may vary dependent on the sensitivity of the information requested, identity of the applicant, and the purpose of request.

Applicant shall file a Freedom of Information Act (FOIA) request with the Evert City Clerk's office so that a record of all requests is properly maintained. DPW will fulfill the request by providing maps that depict limited critical infrastructure within a geographical area no greater than a one (1) square mile section.

5. **DISCLAIMER**

A. Recipients of access to or the output from a GIS receive all information "AS-IS". The City cannot and does not guarantee or warrant the availability of the GIS or the ability to connect to it. The City, 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.

B. No officer, official, employee, agent, volunteer, contractor or other person or public body may make any representation or warranty on behalf of the City or one of its public bodies.