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PURPOSE:

To establish guidelines for charging a reasonable fee for providing enhanced access to a public record.

SCOPE:

The policy allows the public body to recover costs for operating expenses which include, but are not limited to, the public body's direct cost of creating, compiling, storing, maintaining, processing, upgrading, or enhancing information or data in a form available for enhanced access.

POLICY:

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

1. Definitions.

- A. "Enhanced access" means a public record's ready 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. The City of Kalamazoo is a public body for purposes of this statute.
- 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.

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2. Authorization.

- A. Pursuant to 1996 P.A. 462, the City Manager, with the concurrence of the City Attorney, 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 the City of Kalamazoo to provide enhanced access to a specific record, if the City 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. The City Manager, City Attorney, City Assessor and City Clerk shall identify and select which public records maintained by their respective offices 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 information resources should be the same as those applied to other governmental resources.
 - 2. Information resource investments must be driven by legal, programmatic and governmental requirements.

3. Fees.

- A. It is a policy of the City of Kalamazoo 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; and
 - (iii) Providing output from a geographical informational system.
- B. “Reasonable fee” means a charge calculated to enable the City of Kalamazoo to recover over time only those operating expenses directly related to its provision of enhanced access.

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- C. "Operating expenses" includes, 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.
 - D. Except as otherwise provided by ordinance or statute, the City Commission shall approve 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 ordinance or statute, all persons shall be charged the reasonable fee approved by the City Commission for enhanced access to a public record or for access to a geographical information system or the output from a geographical information system.
 - F. Consistent with Michigan's Freedom of Information Act, the City of Kalamazoo may furnish access or enhanced access without charge or at a reduced charge if it determines that a waiver or reduction of fees is in the public interest because enhanced access can be considered as primarily benefitting the general public.
 - G. Waiver or fee reductions shall be decided by the City Attorney after consultation with the affected City departments.
4. Disclaimer.
- A. Recipients of access or enhanced access receive all information "AS IS." The City of Kalamazoo, 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.
 - B. No officer, official, employee, agent, volunteer, contractor or other person may make any representation or warranty on behalf of the City of Kalamazoo or one of its public bodies. Any such warranty or representation shall create no direct or

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indirect liability for the City of Kalamazoo.

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SEE ALSO:

Public Records Act, 1996, P.A. 462

Robert B. Jones, Mayor