



CITY of NOVI CITY COUNCIL

**Agenda Item B
August 12, 2013**

SUBJECT: Approval of adoption of an Enhanced Access to Public Records Policy and Fee Resolution for hard copy maps and digital data searches.

SUBMITTING DEPARTMENT: City Clerk

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The proposed Enhanced Access to Public Records Policy and Resolution establishes the framework to allow the City to provide access to records derived from its GIS system and sets fees for certain GIS requests pursuant to Public Act 462 of 1996 (the "Act"), which authorizes governmental public bodies to provide enhanced access for inspection, copying, and purchasing a public record consisting of information derived from the public body's Geographic Information System and allows the public body to charge reasonable fees for access. The Act also authorizes the City to provide free access to other public bodies subject to entering an agreement with the public body that the public body will remit a portion of any fee that public body may charge others for access to the data.

The Act does not supersede the Freedom of Information Act requirements that the City is subject to for providing copies and access to public records, and applies only to the narrow category of public records derived from the City's GIS system. Oakland County and other local public bodies with GIS systems have adopted similar policies based on the Act. The proposed policy differs from Oakland County's policy and the policies of other communities only with respect to two issues more particular to the City, and with respect to the amounts of the proposed fees, which reflect the City's costs.

First, the City provides *free* access to certain GIS output on the City's website that allows any person to search the City's mapping system and print maps showing certain data including land records, zoning information, woodland and wetland information, public and private streets, roadway jurisdiction and other non-sensitive information. Because the access is self-service and does not require expenditures by the City on staff time, or ink and paper supplies, the City is able to provide free access.

For more complicated searches, as well as larger or more detailed maps that require assistance from City staff and use of City equipment to produce the hard copy of the record, significant City resources including staff time, as well as paper and ink and other necessary supplies, are accounted for and recovery of costs is provided for. Because the City chooses to provide a level of free access to GIS data, the Policy differentiates between the free GIS output and the requests requiring the payment of fees.

Second, the policy has been modified to identify the City's policy relating to critical infrastructure protection. Generally, the Freedom of Information Act allows public bodies to limit access to information relating to protection and security of public works facilities,

including, more specifically public water supply designs. Federal and state policies currently provide a directive to local government to assess their own risks and come up with plans to protect critical infrastructure. Though, currently there are no state statutes or Administrative Rules requiring a certain level of protection for critical infrastructure information, the City has compared the policies of other local bodies, including Oakland County, in developing its risk assessment and has determined that applicants that file a Freedom of Information Act request stating a specific need for the information relating to the City's public water supply or sanitary sewer system, may obtain limited GIS information relating to locations for purposes such as developing plans for connection or for use by contractors assisting the City.

Pricing for GIS Map of City-Wide Stormwater			
City	Square Mileage	Total Price	Price per square mile*
Novi	31.28	\$882	\$28.20
Big Rapids	4.4	\$500	\$113.64
Kalamazoo	25.11	\$1,000	\$39.82
Midland	35.69	\$3,000	\$84.06

*Includes all service fees (the City of Novi charges \$25 with an additional \$100 processing fee)

RECOMMENDED ACTION: Adoption of an Enhanced Access to Public Records Policy and Fee Resolution for hard copy maps and digital data searches.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Wrobel				



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June 11, 2013

Maryanne Cornelius, Clerk
City of Novi
45175 West Ten Mile Road
Novi, MI 48375

**RE: Enhanced Access to Public Records Policy and
Fee Resolution**

Dear Ms. Cornelius:

Enclosed please find the final drafts of the proposed Enhanced Access to Public Records Policy and corresponding Resolution setting fees for hard copy maps and digital data searches performed by City staff. The Department of Public Services, Information Technology, and the City Clerk's Office have all participated in preparation of the enclosed draft Policy and Resolution.

The general provisions of the Enhanced Access to Public Records Policy are derived from Enhanced Access to Public Records Act, Public Act 462 of 1996 (the "Act"), which authorizes governmental public bodies to provide enhanced access for inspection, copying and purchasing a public record consisting of information derived from the public body's Geographic Information System and allows the public body to charge reasonable fees for access.

The Act also authorizes the City to provide free access to other public bodies subject to entering an agreement with the public body that the public body will remit a portion of any fee that public body may charge others for access to the data.

The Act is not intended to supersede the Freedom of Information Act requirements that the City is subject to for providing copies and access to public records, and applies only to the narrow category of public records derived from the City's GIS system.

Oakland County and other local public bodies with GIS systems have adopted similar policies based on the Act. We have modified the Policy and Resolution from the standard form to address certain issues particular to the City.

Maryanne Cornelius, City Clerk
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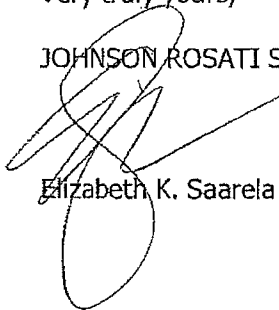
First, the City provides free access to certain GIS output on the City's website that allows any person to search the City's mapping system and print maps showing certain data including land records, zoning information, woodland and wetland information, public and private streets, roadway jurisdiction and other non-sensitive information. Because the access is self-service and does not require expenditures by the City on staff time, or ink and paper supplies, the City is able to provide free access. For more complicated searches, as well as larger or more detailed maps that require assistance from City staff and use of City equipment to produce the hard copy of the record, significant City resources including staff time, as well as paper and ink and other necessary supplies are account for and recovery of the costs is provided through the Enhanced Access to Public Records Policy. Because the City chooses to provide a level of free access to GIS data, the Policy differentiates between the free GIS output and the requests requiring the payment of fees.

Second, the policy has been modified to identify the City's policy relating to critical infrastructure protection. Generally, the Freedom of Information Act allows public bodies to limit access to information relating to protection and security of public works facilities, including, more specifically public water supply designs. Federal and state policies currently provide a directive to local government to assess their own risks and come up with plans to protect critical infrastructure. Though, currently there are no state statutes or Administrative Rules requiring a certain level of protection for critical infrastructure information, the City has compared the policies of other local bodies, including Oakland County, in developing its risk assessment and has determined that applicants that file a Freedom of Information Act request stating a specific need for the information relating to the City's public water supply or sanitary sewer system, may obtain limited information relating to locations for purposes such as developing plans for connection or for use by contractors assisting the City.

The enclosed Enhanced Access to Public Records Policy and Resolution setting fees may be placed on an upcoming City Council Agenda for consideration. Please feel free to contact me with any questions or concerns relating to these documents.

Very truly yours,

JOHNSON ROSATI SCHULTZ & JOPPICH, PC



Elizabeth K. Saarela

EKS
Enclosure
Rob Petty, Chief Information Officer
Rob Hayes, Director of Public Services

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Thomas R. Schultz, Esquire

CITY OF NOVI

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, MCL 15.441 et seq.

1. DEFINITIONS

A. "City" means the City of Novi, 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 Novi, 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(1)(d)), and the other public body complies with the other requirements of Section 3(1)(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 Services (DPS) 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 DPS 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 Novi City Clerk's office so that a record of all requests is properly maintained. DPS 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.

**CITY OF NOVI
COUNTY OF OAKLAND, MICHIGAN**

RESOLUTION

At a _____ meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall in said City on _____, 2013, at _____ o'clock P.M., the following Resolution was adopted:

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

RECITATIONS:

Act 462 of the Public Acts of 1996, as set forth in MCL 15.441, et seq., makes provision for municipalities to provide enhanced access to public records upon authorization of the City Council;

The City has expended considerable resources developing its geographical information system and its products ("GIS") accessible through its geographical information system;

The City currently provides self-service GIS access ("Self-Service Access") to the general public through certain City website applications, at no charge.

The general public may review online and print limited types, formats, and quantities of information from the City's GIS system.

The City also provides enhanced access to the GIS information ("Enhanced Access") which gives a person the option to request assistance from City staff to obtain additional

formats and sizes of hard copy maps and expanded types and quantities of digital information, as well as assistance with data extraction from the City's GIS or GIS output.

Enhanced Access to GIS costs the City more in operating expenses than Self-Service Access for 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.

The City Council has concluded that it would be inequitable to the taxpayers of the City if reasonable fees for providing Enhanced Access to the output of the City's GIS were not recovered from those persons specially benefiting from such output; and

The City's Information Technology Department has, on the basis of analysis, made a recommendation of fees in amounts reasonably calculated to allow the City to recover over time, certain expenses for Enhanced Access from the persons specially benefiting from the expanded scope of GIS and GIS output made available and the City Council has determined to proceed on the basis of such recommendation.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the provision of Enhanced Access for the purchase of public records by the general public, as expressly specified, below.
2. The following fees shall be charged for Enhanced Access for the purchase of the respectively identified City records by the general public:

HARDCOPY MAPS

Standard thematic maps created with the City's GIS – (priced by size/per copy)

8.5 x 11"	\$ 3.00
20 x 20"	\$10.00
24 x 32"	\$14.00
36 x 48"	\$22.00

Custom "area of interest" (i.e., to be specifically created from the City's GIS data), thematic maps – (priced by size/per copy plus processing fee)

8.5 x 11"	\$ 3.00
20 x 20"	\$10.00
24 x 32"	\$14.00
36 x 48"	\$22.00
plus	
Processing Fee:	\$100.00

DIGITAL DATA

Digital Orthophotos	\$125.00 per photo, processing fee included (4 photos for the entire City of Novi, 18" pixel resolution, Black and White)
Digital Spatial Data (e.g., sanitary, water, features, or combination)	\$25.00 per square mile, plus a \$100.00 processing fee for data extraction and preparation (includes all other wetlands, woodlands, zoning, water/sewer/storm).
Attribute data (e.g., quantitative data)	\$25.00 per 1000 records, plus a \$100.00 processing fee for data extraction and preparation (Release of same data subject to information content and privacy rules).

IT IS FURTHER RESOLVED that enhanced access for the general public to or output from the geographic information system shall be made available only in accordance with the above.

AYES: Councilmembers _____

NAYES: Councilmembers _____

RESOLUTION DECLARED ADOPTED.

 Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Novi at _____ meeting held this _____ day of _____, 2013.

Maryanne Cornelius, City Clerk