

**CALHOUN COUNTY  
BOARD OF COMMISSIONERS  
POLICY STATEMENT**

<b>SUBJECT:</b>	<b>DATE APPROVED:</b>	<b>EFFECTIVE:</b>	<b>POLICY NO.</b>
<b>ENHANCED ACCESS TO PUBLIC RECORDS ACT</b>	<b>8/20/09</b>	<b>8/30/09</b>	<b>270</b>
		<b>REPLACES: 270 of 5/6/99</b>	

**PURPOSE:** 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, MCLA §15.441 et seq., as amended. The purpose of the Policy is: 1) to establish the definitions and operational provisions for Calhoun County's policy on enhanced access to public records, 2) to authorize the establishment of a fee schedule and to establish conditions for its waiver, and 3) to set forth a disclaimer as to all express and implied warranties regarding the access to or the use of public records for which enhanced access is provided.

**1. 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, Calhoun County'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. "Person" means that term as defined in Section 2 of the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, MCLA §15.231 et seq., 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, MCLA §15.231 et seq., 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, MCLA §15.231 et seq., as amended.
- G. "Reasonable fee" means a charge calculated to enable Calhoun County to recover over time those operating expenses directly related to the cost of providing enhanced access.
- H. "Software" means that term as defined in Section 2(I) of the Enhanced Access to Public Records Act, Act No. 462 of the Public Acts of 1996, MCLA §15.441 et seq., as amended.

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**2. OPERATIONAL PROVISIONS**

- A. Pursuant to the provisions of the Enhanced Access to Public Records Act, Calhoun 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 Calhoun County to provide enhanced access to any specific public record, if the public record sought is not available through the Calhoun County enhanced access system.
- C. The Calhoun County Board of Commissioners, pursuant to the recommendations of the Calhoun County Administrator/Controller, or designee, 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 records and information resources will be consistent with those applied to other Calhoun County resources, and will be consistent with the requirements of law.
  - 2. Elected officials, department heads, departments, agencies, boards, commissions, councils and other Calhoun 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 Calhoun County policies therefore, including but not limited to this Policy and the Calhoun County Freedom of Information Act Policy, No. 230.
  - 3. Information resource investment will be driven by sound legal and programmatic principles and by principles of sound financial management.
  - 4. The Calhoun County Board of Commissioners will ensure that ownership of information products and county-created intellectual property is protected, maintained and enhanced.

**3. FEES**

- A. It is the policy of Calhoun County to charge a reasonable fee for:
  - 1. Providing enhanced access to a public record.

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2. Providing access to a geographical information system.
  3. Providing output from a geographical information system.
- B. Except as otherwise provided by act or statute, the Calhoun County Administrator/Controller shall recommend and the Calhoun 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 to the output from a geographical information system, before those fees shall become effective.
- C. Except as otherwise provided by act or statute, or as otherwise provided herein, all persons shall be charged the reasonable fee approved by the Calhoun County Board of Commissioners for enhanced access to a public record or for access to a geographical information system or to the output from a geographical information system.
- D. Fees to be charged under this Section may be reduced or waived by the Calhoun County Administrator/Controller or designee, in instances where the determination is made by the Administrator/Controller, in writing, that:
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 for nonprofit research purposes such as academic or public interest research;
  3. The information is required to meet legal, programmatic or Calhoun County governmental objectives;
  4. The information explains the rights, entitlements and/or obligations of individuals;
  5. The cost of administering the fees would exceed the revenue to be collected;
  6. The reasonable fee established would have a serious detrimental impact on the financial position of particular groups or classes or users; or
  7. The reasonable fee established would sufficiently limit the number of users to compromise achieving program or other Calhoun County governmental objectives.
- E. Through the adoption of this Policy, the Calhoun County Board of Commissioners, authorizes the Calhoun County Administrator/Controller to enter into intergovernmental agreement(s), in the form attached hereto as Exhibit A, with other public bodies to provide enhanced access

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to public records, its geographical information system, or to obtain output from a geographical information system, at a reduced fee in accordance with the requirements of Section 3 of the Enhanced Access to Public Records Act.

- F. All persons receiving output from Calhoun County’s GIS system, obtaining enhanced access to public records or obtaining access to Calhoun County’s GIS system shall not sell or transfer the output or information obtained to any third party without the prior written consent of the Calhoun County Administrator/Controller or designee.
- G. Unless otherwise prohibited by law, user credit card payments authorized by online means may be accepted as a valid means of payment for fees provided for herein.

**4. DISCLAIMER OF ALL WARRANTIES**

- A. Recipients of access or enhanced access to Calhoun County records, to any Calhoun County government information system, or to any output from any Calhoun County government information system, receive access and all public records and information "AS IS". Calhoun County, the Calhoun County Board of Commissioners, together with the elected and appointed officials of Calhoun County, and all employees and/or agents of Calhoun County make no warranties of any kind, whether express or implied, including but not limited to warranties of accuracy, ownership, title, fitness for any 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 and systems to protect, indemnify, and hold Calhoun County harmless against any and all such claims, including the payment of any damages, costs, or attorney's fees. Calhoun County does not warrant that access to Calhoun County records will be uninterrupted or that there will be no failure, errors, omissions, or loss of transmitted content or information.
- B. No Calhoun County officer, official, employee, or agent is authorized to make warranties, express or implied, including but not limited to warranties of accuracy, ownership, title, fitness for any particular purpose, or of a recipient's right of use regarding the enhanced public records of Calhoun County, its government information systems, or as to the product or output of those systems.

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C. A web page hypertext link to any non-County website or content, or any reference to a specific product, process, or service by its mark, trade name, or other such means of identification, posted on the Calhoun County website does not constitute or imply Calhoun County's endorsement, sponsorship, or recommendation thereof.

**5. 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 circumstances shall not have the effect of rendering