

LIVINGSTON COUNTY

ENHANCED ACCESS TO PUBLIC RECORDS POLICY

RESOLUTION #601-193

LIVINGSTON COUNTY, MICHIGAN

APPROVED: 6.19.01

RESOLUTION #2006-07-237

LIVINGSTON COUNTY, MICHIGAN

AMENDED: 7.17.06

1. **AUTHORITY and PURPOSE:** This policy is established by the Livingston County Board of Commissioners pursuant to the authority of the Enhanced Access to Public Records Act, 1996 PA 462, MCL 15.441 *et seq.* The policy is intended to outline procedures for providing certain records to the public and establishing a fee for such records as allowed by law.
2. **APPLICATION:** This policy applies to all departments, elected official offices, and agencies of Livingston County government.
3. **DEFINITION(S):**
 - A. County means Livingston County, a Michigan municipal corporation.
 - B. Enhanced Access means a public record's immediate availability for public inspection, purchase or copying by digital means, or immediate placement of an order for specific output resulting from such means for later fulfillment. Enhanced access does not include the transfer of ownership of a public record.
 - C. Online Access means a method of providing a secured, two-way digital transmission of data between the County Website and County Website users who request enhanced access to particular County public records using the Internet's public network infrastructure.
 - D. County Website means LivingstonLive.org, Livingston County's official website, which is an Internet-accessible World Wide Web portal composed of related and interconnected web pages under the control of the County, which provide official County information and content to all users, as well as a web interface for hosting the County's interactive online services applications that provide online access to particular public records specifically requested by a user.
 - E. User means a person, acting on behalf of their own interests or acting as an agent for a private or public organization, who uses online access to receive any information or content provided by the County Website and may specifically request enhanced access to particular County public records.
 - F. Operating Expenses includes, but is not limited to, Livingston 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, system development, costs associated with processing online credit card payments from users, employee time, and the actual cost of supplying the information or record in the form requested by the purchaser.
 - G. 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.
 - H. 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.

- I. 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.
- J. Reasonable Fee means a charge calculated to enable Livingston County to recover only those operating expenses directly related to the County's provision of enhanced access.
- K. Enhanced Access Fee Schedule means the fee schedule of reasonable fees charged for enhanced access on a per transaction basis (which is also known as a convenience fee) that is calculated on the total transaction amount for a particular fee for service specifically requested by the user according the fee schedule then in effect and adopted by the Livingston County Board of Commissioners.
- L. Content means any digital object accessible through any County Website web page, including but not limited to text, data, photographs, maps, images, data files, graphics, audio and video clips, and software.
- M. 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.

4. **SEE ALSO:** Online Privacy Policy

5. **POLICY:**

- A. Pursuant to Act No. 462 of the Public Acts of 1996, all Livingston County government 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. Livingston County's elected officials, department heads, agencies, boards, commissions and councils legally responsible for the creation, preparation, ownership, custody, control, maintenance, preservation, guardianship, retention, possession or use of a public record shall select which 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, being section 15.231 et seq. of the Michigan Compiled Laws.
- 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 must be driven by legal, programmatic and governmental requirements.
 - (4) Livingston County government, in trust for the people of Livingston County, has a duty to ensure ownership of information resources and that County-created intellectual property is protected and maintained.

6. FEES:

- A. It is the policy of Livingston County to charge a reasonable fee for providing enhanced access to a public record.
- B. The enhanced access fee, which may also be referred to on the County Website as a convenience fee, shall be calculated based on the adopted Enhanced Access Fee Schedule then in effect and shall be added to the particular fee for service that a Department may charge for the information or content specifically requested by the user to form the total combined transaction fee charged to the user. The enhanced access fee portion of the total transaction fee charged to the user shall be receipted as revenue to the Livingston County Information Technology Department to offset the operating expenses of providing enhanced access.
- C. It is the policy of Livingston County to charge a reasonable fee for:
 - (1) Providing online access to any public records made available digitally through the County Website, which have been specifically requested by a user.
 - (2) Providing online access that allows a user to place an online request through the County Website for order fulfillment of specific output resulting from enhanced access to a public record.
- D. Except as otherwise provided by law, user credit card payments authorized by online means shall be accepted as a valid method of payment for convenience fees and any other associated fees for service charged per transaction for enhanced access to a particular public record.
- E. Except as otherwise provided by law, the Livingston County Debt Management Subcommittee shall periodically review the Enhanced Access Fee Schedule and, where appropriate, recommend specific changes to the Enhanced Access Fee Schedule, which shall be presented to and approved by the Board of Commissioners before they shall become effective.
- F. Except as otherwise provided by law or this policy, all persons shall be charged the reasonable fees approved by the Livingston County Board of Commissioners for enhanced access to County public records.
- G. Livingston County may provide another public body with access to County public records for the official use of that other public body, without charging a fee to that other public body, if the access to the County Website 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 15.433(1)(d), and the other body complies with the other requirements of Section 3(1)(d) as it relates to collection and payment of fees to the County.
- H. This policy does not apply to particular fees for service charged by County Departments for 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 any act or statute. Any particular fee for service charged in addition to the convenience fee for online access through the County Website that is specifically requested by and charged to a user shall be receipted as revenue for the County Department(s) responsible for maintaining the specifically accessed public records.
- I. An individual elected or appointed to a board or the County Board of Commissioners 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 County. However, this does not include compensation accepted from the County.

7. DISCLAIMER:

- A. Livingston County, its officers, officials, employees, agents, volunteers, contractors, or its public bodies shall not be liable for any errors or omissions contained in any content or information accessed by users of the County Website. Users accessing the County Website take all content and information acquired from the County Website “AS IS.” Livingston County, its officers, officials, employees, agents, volunteers, contractors, or its public bodies expressly disclaim any and all warranties, express or implied, including but not limited to any warranties of accuracy, reliability, title, merchantability, non-infringement, fitness for a particular purpose, or any other warranty, condition, guarantee or representation, whether oral, in writing, or in electronic form, including but not limited to the accuracy, completeness or usefulness of any information accessed or provided by the County Website to its users. The County does not warrant that access to the County Website will be uninterrupted or that there will be no failures, errors, or omissions or loss of transmitted content or information.
- B. Users of the County Website are solely responsible for investigating, resisting, litigating and settling any complaints arising from their use of the County Website and shall, at their own expense, protect, defend, indemnify, save and hold harmless Livingston County, its officers, officials, employees, agents, volunteers, contractors, or its public bodies from all claims, injuries, damages, lawsuits, costs and expenses arising from the use of the County Website, including but not limited to failure of performance, error, omission, interruption, defect, delay in operation or transmission, computer virus, online failure, or claims alleging invalidity and/or inaccuracy of the content or information accessed from the use of the County Website.
- 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 County Website does not constitute or imply the County’s endorsement, sponsorship, or recommendation thereof.
- D. Unless authorized by resolution of the Livingston County Board of Commissioners, no other officer, employee, agent, volunteer, contractor or other person or public body may make any representation or warranty on behalf of Livingston County, or one of its public bodies.



ADOPTED	#1188-214	11.7.1988
AMENDED	#1295-285	12.4.1995
ADOPTED	#601-193	6.19.01
AMENDED	#2006-07-237	7.17.06

APPROVED AS TO FORM FOR
LIVINGSTON COUNTY:
COHL, STOKER, TOSKEY & MCGLINCHAY, PC
BY: TIMOTHY M. PERRONE, ESQ.

RESOLUTION AMENDING THE ENHANCED ACCESS POLICY TO CHANGE THE METHOD OF PROVIDING ENHANCED ACCESS TO COUNTY DATA – INFORMATION TECHNOLOGY DEPARTMENT / GENERAL GOVERNMENT COMMITTEE / FINANCE COMMITTEE

WHEREAS, the Enhanced Access to Public Records Act (P.A. 462 of 1996; MCL § 15.441-45) permits a county to provide enhanced access to certain public records and to charge certain fees for providing that enhanced access, which the Livingston County Board of Commissioners have accordingly adopted as the County’s Enhanced Access Policy in Resolution #1188-214, and subsequently amended in #1295-285, and 601-196; and

WHEREAS, the Enhanced Access Policy has been periodically reviewed and amended to keep pace with the evolution of technology necessary to provide enhanced access; accordingly, the Online Services Task Force and the Information Technology Department have recommended, and the Board has authorized in Resolution #206-03-098, the creation of an Internet-based method for providing enhanced access through the development of the County’s Online Services Portal; and

WHEREAS, the terms of the agreements between the County and various businesses for enhanced access that are currently in force, as well as all new agreements, need to be updated with this change in access method: 1) to reflect new “Terms of Use” that are appropriate for the Internet and encompass both business subscriber and casual individual usage; 2) to allow for online credit card payments for services requested by a non-subscribing user; and 3) to implement a new method for charging fees by transaction, which will be made up of the specific fee for service requested by the user, as well as a corresponding convenience fee according to the enhanced access fee schedule then in effect; and

WHEREAS, to minimize the time and cost of development and certification of our online credit card payment module, the Treasurer and the Information Technology Department recommend using the online credit card processing services of Chase Paymentech, who have already certified our credit card payment module, which is currently in use by Ottawa and Kent counties.

THEREFORE, BE IT RESOLVED that the Livingston County Board of Commissioners hereby amends the Enhanced Access Policy to change the method of providing enhanced access to County information to an Internet-based Online Services Portal , to be named “Livingston Live,” that will charge per transaction fees based on the adopted enhanced access fee schedule then in effect, allow for online credit card payments for services requested by non-subscribing users, and update the “Terms of Use” appropriate for providing Internet-based enhanced access to all users of Livingston Live, in accordance with currently accepted industry standards for online transactions and review by Civil Counsel.

BE IT FURTHER RESOLVED that the Board of Commissioners authorizes the termination of all enhanced access agreements currently in force between the County and various businesses when Livingston Live becomes operational and entering into a revised standard agreement for all current and new businesses that wish to become new subscribers to Livingston Live, with revised contract terms that shall: 1) continue in force until termination without cause by either party, with a 30-day written notice; 2) provide for monthly invoicing to subscribers for all fees for services requested and convenience fees charged on a per transaction basis per the enhanced access fee schedule then in effect, and 3) other miscellaneous terms appropriate for providing Internet-based enhanced access, in accordance with currently accepted industry standards for online transactions and review by Civil Counsel.

BE IT FURTHER RESOLVED THAT the Board of Commissioners hereby approves the entering into a merchant agreement for the credit card processing services for the Online Services Portal with Chase Paymentech Solutions, LLC of Dallas, Texas, for a term that shall continue in force until termination without cause by either party, with a 30-day written notice and at the cost for the Government Pricing Schedule, then in effect, for the card issuer’s “credit card not present” rate and a Paymentech processing service fee of \$0.20 per transaction.

BE IT FURTHER RESOLVED THAT the Board Chair is hereby authorized to sign any agreements or documents as needed for these services upon review by Civil Council.

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MOVED: COMMISSIONER DOMAS
SECONDED: COMMISSIONER PARKER
CARRIED: 9-0-0