

Lyon County GIS

Cooperative Agreement Policy

Adopted by the Lyon County Board of Commissioners on December 2nd, 2003

Cooperative Agreement

- 1) Lyon County Minnesota grants to you a non-exclusive, non-sublicensable, license to use this version of **Lyon County GIS Digital Data**. If contacted by other parties interested in using Lyon County, MN Digital Data these parties shall be directed to [Lyon County GIS Department](#), 504 Fairgrounds Road Marshall, MN 56258, so as to enter into a similar Cooperative Agreement.
Lyon County explicitly declares “OWNERSHIP RIGHTS” as a © COPYRIGHT to all data under ownership and distributed by Lyon County¹.
If indicated here _____ by the initials of county staff you may make copies, **BUT ONLY FOR USE BY OTHER STAFF IN YOUR ORGANIZATION**, pursuant to the terms of this agreement. This Cooperative Agreement applies to all digital data acquired from Lyon County Staff, FTP sites, other internet-based delivery systems, or any other means of transfer. In the event that another cooperative agreement issued by Lyon County Staff is explicitly associated with a particular data set, the terms of the other cooperative agreement prevail, and the terms expressed in this cooperative agreement are nullified.
- 2) Lyon County, MN makes no representations about the suitability of this Digital Data or about any content or information made accessible by the Software, for any purpose. The Digital Data is provided 'as is' without express or implied warranties, including warranties of merchantability and fitness for a particular purpose or non-infringement. This Software is provided gratuitously and, accordingly, Lyon County, MN shall not be liable under any theory for any damages suffered by you or any user of the Data.

Limit on Liability

Lyon County is furnishing this the data on an “as is” basis, without any support whatsoever, and without representations or warranty, including, but not limited to, fitness, merchantability or the accuracy and completeness of the data. The data is neither a legally recorded map nor a survey and will not be used as one. The data is a compilation of records, information, and data from various city offices, county offices, state offices and various other sources and should be used for reference only. No representation is made that features presented accurately reflect true location. Neither Lyon County nor any other entity from which the data was obtained assumes any liability for any errors or submissions herein. If discrepancies are found please contact the Lyon County GIS department. Because the data is inherently complex and may not be completely free of errors. In no event will the county be liable for direct, indirect, special, incidental or consequential damages arising out of the use of or inability to use the data even if advised of the possibility of such damages. Specifically, the County is not responsible for any costs including, but not limited to, those incurred as a result of lost profits or revenue, loss of use of data, the cost of recovering such programs or data, the cost of any substitute program, claims by third parties, or for any other similar costs.

Lyon County, MN makes no representation or warranties, express or implied, with respect to the reuse of data provided herewith, regardless of its format or the means of its transmission. There is no guarantee or representation to the User as to the accuracy, currency, suitability, or reliability of this data for any purpose. The User accepts the data 'as is', and assumes all risks associated with its use. By accepting this data, the User agrees not to transmit this data or provide access to it or any part of it to another party. Lyon County, MN assumes no responsibility for actual or consequential damage incurred as a result of any User's reliance on this data.

Read and Initial _____

¹ U.S. law only prohibits federal agencies from exercising copyrights. Copyright law generally considers documents and “unique compilations” of data to be owned by the creator from the moment of creation. State and local Government data can be considered copyrighted, with or without a specific declaration.

- 3) Though Lyon County will continually be updating the Digital Data, Lyon County, MN is not obligated to provide updates to these data in the event that newer versions become available. Updates can be distributed to members of this cooperative agreement **annually**, if requested, for a fee determined by the Lyon County GIS Fee Schedule. Lyon County, MN provides basic free documentation and metadata according to Minnesota Metadata Standards with the Digital Data and also @ <http://www.lyonco.org/>.
- 4) All content accessed through the Data is the property of the applicable content owner and may be protected by applicable copyright law. This cooperative agreement gives you no rights to such content.
- 5) Title, ownership rights, and intellectual property rights in and to the Digital Data shall belong to Lyon County, MN. You agree to abide by the copyright law and all other applicable laws of the United States.
- 6) The User relieves Lyon County, MN and its respective officers, agents and employees of any liability for any and all damages resulting from use or mis-use including:
 - a) Incidental, consequential, special or indirect damages of any sort, whether arising in tort, contract or otherwise, even if Lyon County, MN has been informed of the possibility of such damages, or
 - b) Any claim by any other party. Furthermore, in States that do not allow the exclusion or limitation of incidental or consequential damages, you may not use this Digital Data.
- 7) When these data are used in the development of digital or analog (hardcopy) products, Lyon County, MN must be acknowledged as having contributed data to the development of the product.
- 8) Although the use of these data is not restricted, they may not be sold commercially or privately.
- 9) The User may incorporate the data into their own products and distribute the data with those products provided that the data is not duplicated or disclosed in the same form provided to the User by the Lyon County.
- 10) Regardless of the date of signatures hereunder, this agreement shall be in effect from the date of receipt, in digital form, of any portion of Lyon County, MN Digital Data until return or certified destruction of said digital data.

Public Data and the Exceptions.

Reasons for exceptions vary, but in most cases are intended to protect privacy -- of individuals, households, farms, businesses. Some examples of data that are exempted or *Not Public*: social security numbers of individuals, addresses of public employees, most data about students, lease information, net rentable areas of buildings, information about electric utility customers. The terms used to describe exempted data for individuals are slightly different than for other data, but only three categories of data actually exist: Although data about individuals often is not public in its initial form, once processed to remove all personal identifiers or recompiled as *Summary* data, they may become public. When geospatial data are recompiled for units of geography – census units, political jurisdictions, school districts, for example – they usually can be treated as summary data.

Rights to Distribute Data. Sometimes an organization possesses data that it is not entitled to distribute. Such restrictions should be clearly understood before data is distributed. The right to distribute data may be derived from outright ownership, by agreement with another organization, or by law in the case of data in the *public domain*, in which case there are no restrictions on distribution. Most data produced by federal agencies are in the public domain. Subject to requirements of the Minnesota Government Data Practices Act, an organization has the right to distribute public data it collects, develops and maintains. Though it is not common practice, government organizations should consider explicitly declaring this “ownership” right as a copyright if they intend to specify conditions related to use or redistribution to third parties.⁴

An organization may also obtain the right to distribute data through agreements with data producers, public or private. In cases where that right has not been established, it is recommended that data distribution be handled by the producer.

Cost for Data. Government organizations may charge fees to provide copies of data, but they do not have carte blanche authority to determine what to charge and who to charge. Chapter 13 defines what fees, if any, may be charged and how to determine them, generally based upon a presumption that data availability is essential for open government. No charge is permitted for inspection of public data.

Restrictions on Data Access. Government organizations generally may not restrict access to public data to any requestor for any reason. If an organization determines that the request is for data that is classified as not public, then it must inform the requestor, citing the specific statute or ruling that describes the reason for the classification.

⁷ Minnesota statutes offer protection to municipalities from tort claims resulting from inaccurate data, provided that the municipality provides a disclaimer along with its data. Unless a municipality can prohibit redistribution of its data, it cannot ensure that the disclaimer is associated with the data.

⁸ Whether or not this modified data becomes something distinct from the original is at the heart of intellectual property law. This is a question best answered by attorneys who specialize in that specialized area of law.

⁹ See www.gis.state.mn.us/stds/metadata.htm for a copy of the guideline. Help with its use and other documentation tools are available from the Minnesota Land Management Information Center www.lmic.state.mn.us.

¹⁰ Government organizations are required “to establish procedures to assure that all data on individuals is accurate, complete, and current for the purposes for which it was collected.” See Minnesota Statutes, Chapter 13.05, Subdivision 5.

As a rule, all data collected by state and local government is public data, except for data explicitly declared otherwise by state statute or federal law.

11) **Payment (if applicable)** A Government entity may assess a reasonable charge to recover the costs of searching for, retrieving, certifying, compiling and electronically transmitting copies of government data and products, including costs for employee time.ⁱ

Lyon County’s Cooperative Agreement allows any entity to obtain Lyon County GIS data. Lyon County reserves the right to allow non-profits and government agencies to enter into the cooperative agreement for no charge. Private entities may be allowed to enter into the cooperative agreement for no charge if they have a GIS dataset or another product deemed suitable for Lyon County uses by (employee initials)_____ that allows for open GIS data sharing between Lyon County and said entity. All other private entities will be charged according to the most recent GIS Department Fee Schedule.

Requested Lyon County GIS Data (Mark all that apply)

- Address Points - \$150
 - Annual Updates - \$50 per update
- Parcels: Entire County - \$400 or Selection Set - \$_____
 - Annual Updates - \$150 per update
- Road Centerlines \$150
 - Annual Updates - \$50 per update

Fee \$_____ Update Fee \$_____

Lyon County, MN GIS Fee Schedule will determine the fee, as it may from time to time be amended. If a fee is charged the full amount must be paid before data is released.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below

COUNTY OF LYON		Party Entering Cooperative Agreement	
By _____		By _____	
County Administrator	Date		Date
By _____		Title and Organization _____	
Public Works Director	Date	_____	
By _____		Print Name _____	
GIS Coordinator	Date		

ⁱ Minnesota Statutes section 13.03 provides that, if a person requests copies or electronic transmittal of public government data, the responsible authority for the government entity may require the requesting person to pay the **actual costs of searching for and retrieving** government data, including the cost of **employee time**, and for **making, certifying, compiling and electronically transmitting** copies of the data, or the data themselves, *but may not charge for separating public data from not public data.*

Exceptions - Staff time required to:
 retrieve documents (The requirement that data be kept in a manner that makes them easily accessible for convenient use may limit the entity in charging for search and retrieval time), sort and label documents, *if* necessary to identify the data to be copied remove staples, paper clips,
 take documents to copier for copying, copy documents, Materials (paper, copier ink, staples, diskettes, mag tapes, video or audio cassettes, etc.), Special costs associated with making copies from computerized data, such as writing or modifying a computer program to format data (keeping in mind that computerized data must be easily accessible for convenient use), Mailing costs, Vehicle costs directly involved in transporting data to the appropriate facility when necessary to provide copies.