



City of Dripping Springs Public Information Policy

I. General

- A. Purpose:** Pursuant to Government Code section 552.230(a) the City of Dripping Springs (the “City”) promulgates these reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay. The purpose of this policy is to set out guidelines to ensure that all requests for public information are managed uniformly, fairly, timely, and within the statutes set out by the Texas Public Information Act (“the Act”). In the event of any conflict between the City’s Policy and the Act, the Act and other applicable state laws shall prevail.
- B. The Public Information Act:** The Texas Public Information Act gives the public the right to request access to government information through a written request to a governmental body. The request must ask for records or information already in existence. The Act does not require a governmental body to create new information, to do legal research, or to answer questions.
1. A governmental body has no duty to comply with standing requests for copies of records. If a requester seeks documents that are not in existence at the time of the request, the governmental body may notify the requester of this fact and ask the requester to resubmit the request at a later time when such a record may be available. Also, the governmental body has no duty to notify the requester in the future that the information has come into existence.
 2. The Act requires that an officer for public information of a governmental body promptly produce public information for inspection, duplication, or both on application by any person to the officer. “Promptly” means as soon as possible under the circumstances, that is, within a reasonable time, without delay.
 3. If an officer for public information cannot produce public information for inspection or duplication within ten (10) business days after the date the information is requested, the officer must certify that fact in writing to the requester and set a date and hour within a reasonable time when the information will be available for inspection or duplication.
- C. Scope:** Public information includes information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business. The Act applies to records regardless of their format. It includes information that is maintained in paper, tape, microfilm, video, electronic data held in a computer memory, as well as other mediums specified under law.

- D. Policy:** It is the policy of the City that City officials and employees shall ensure that any information they create, transmit, receive, or maintain in their official capacity, or while performing official business or a governmental function on behalf of the City, which pertains to official business of the City is preserved in accordance with the City's records retention schedule and promptly produced in response to a request for public information.

II. Duties and Responsibilities

- E. Public Information Officer/City Secretary:** The City Secretary serves as the Officer for Public Information ("OPI") and is responsible for the effective disposition of public information requests submitted to the City of Dripping Springs. It is the duty of the OPI to:

1. Make public information available for public inspection and copying.
2. Protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.
3. Make reasonable efforts to obtain public information from a temporary custodian if:
 - a) the information has been requested from the governmental body;
 - b) the OPI is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information;
 - c) the OPI is unable to comply with the duties imposed by the Act without obtaining the information from the temporary custodian; and
 - d) the temporary custodian has not provided the information to the OPI or the officer's agent.
4. Review and update this policy following each session of the Texas Legislature or as state statute requires.

- F. Department Heads/Records Liaison:** Each department head is an agent of the OPI for their department for the purposes of complying with this policy. The Department Head may also designate a Records Liaison to serve as their agent.

- G. Temporary Custodians:** Any current or former officer or employee of the City who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the OPI or OPI's agent is considered a temporary custodian of that information. Temporary custodians have the following responsibilities and shall provide the city with a completed Chain of Custody form as provided by the OPI:

1. A temporary custodian with possession, custody, or control of public information shall surrender or return the information to the City not later than the 10th day after the date the OPI or the OPI's agent requests the temporary custodian to surrender or return the information.
2. A temporary custodian's failure to surrender or return public information as

required in/by this policy and the Act is grounds for disciplinary action by the City that employs the temporary custodian, or any other applicable penalties provided by the Act or other law.

3. The City is considered to receive the request for information held by a temporary custodian on the date the information is surrendered or returned to the City by the temporary custodian.
4. Temporary custodians do not have, by virtue of the officer's or employee's position or former position, a personal or property right to public information the officer or employee created or received while acting in an official capacity.

III. Procedures

A. Signage Required: As required by the Act, the City's OPI shall prominently display the sign prescribed by the Attorney General that contains basic information about the rights of a requester, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information at the following locations (the physical sign must be displayed on paper at least 8-1/2" x 14"):

1. The City's online Public Records Center.
2. The reception desk located at City Hall.
3. The reception desk located at Dripping Springs Ranch Park.

B. Method of Making Written Request for Public Information: The City designates the following mailing address and electronic mail for receiving written requests for public information. The City shall provide the designated mailing address and electronic mailing address to any person upon request. The City will only respond to a written request for public information that is delivered to the City's OPI by one of the following methods:

1. United States mail addressed as follows:

City of Dripping Springs
Attn: City Secretary
PO Box 384
Dripping Springs, Texas 78620

2. Electronic mail sent to Citysecretary@Cityofdrippingsprings.com.
3. Hand delivery to the City's OPI or designated representative at:

Dripping Springs City Hall
511 Mercer Street
Dripping Springs, Texas 78620

4. Electronic submission through the Dripping Springs Public Records Center located on the City of Dripping Springs website homepage at the following address URL: <https://drippingspringstx.justfoia.com/publicportal/home/newrequest>.

Only the four methods listed above are approved methods for submitting requests for public information to the City. The City's OPI shall include a statement, including the

mailing address and electronic mail address designated by the City, that a request for public information may be made by those methods on required signage and website.

- C. Dripping Springs Public Records Center:** The City utilizes software to help track and manage Public Information Requests. This tool is accessible through the Dripping Springs website and is publicly referred to as the “Dripping Springs Public Records Center.” Internally, this software is referred to as “JustFOIA.” The JustFOIA software assists the City in managing and maintaining correspondence between the City and requesters through a “Records Center” and allows the City to track requests and responsive information easily and efficiently.

Specifically, the software can track the date the request was received, date of any correspondence with the requester, City employee providing responsive documentation, internal communications regarding request, estimated cost of producing information, amounts paid, and amounts owed.

D. Receiving Requests for Information

- 1. Written Requests:** All requests for information must be submitted in writing via one of the approved methods detailed in this policy during regular business hours, Monday – Friday, 8:00 a.m. – 5:00 p.m., excluding City holidays, designated non-business days, and when closed due to natural disaster or inclement weather.
 - a)** Non-business days, days where City offices are closed and the day is not an approved holiday under Texas Government Code Section 552.0031, shall be designated via City Council resolution.
 - b)** The Emergency Management Coordinator, City Administrator, and/or the Mayor may declare City offices closed due to natural disaster or inclement weather, which shall be designated non-business days via City Council Resolution.

If an officer or employee is approached and asked for information verbally, they shall direct the requester to the City’s website to make the request using the Public Records Center or provide them with the form prescribed by the Attorney’s General Office to submit their request in writing.

- 2. Date Stamp:** All requests for public information received by the City must be date-stamped according to the method of receipt.
 - a)** Requests submitted on an official City holiday, designated non-business day, weekend or after 5:00 p.m. on a regular business day will be considered received on the next business day.
 - b)** Requests submitted via the online Public Records Center are automatically dated and time-stamped.
 - c)** Requests hand delivered or received via United States mail shall be immediately date-stamped by the agent accepting the request and delivered to the City Secretary.
 - d)** Request received by United States mail where the date received cannot

be adequately established, shall be considered to have been received on the third business day after the date of the postmark on a properly addressed request.

E. Intake and Distribution

- 1. JustFOIA Requests/Public Records Center:** Within three (3) business days of receiving a request the City Secretary or their agent will review the request and either assign the request in JustFOIA to the appropriate department for compilation of the responsive documents or if the request is unclear or particularly voluminous the City Secretary will seek clarification from the requester.
- 2. Hand Delivered/United States Mail/Email:** The City Secretary or their agent shall immediately, but no later than one (1) business day after the request was received, upload the request to JustFOIA and forward to the Department Head or Records Liaison for response.

F. Responding to Requests: All communications regarding requests shall be made using the JustFOIA system, including discussions between personnel related to requests. Department Heads and Record Liaisons shall respond to requests within five (5) business days using the following guidelines:

- 1.** Determine if the request will require a cost estimate or clarification and notify the City Secretary. Both actions will reset the timeline for completion and the City Secretary will communicate the new timeline once assessed.
 - a) Cost Estimate:** if the request will take longer than one (1) hour or contains more than fifty (50) pages, provide the City Secretary with an estimate of the amount of time it will take and an approximate date when request will be completed.
 - b) Clarification:** if the request is unclear or voluminous. Voluminous requests are requests that include paper records that completely fill, or when assembled will completely fill, three (3) or more archival boxes or requests that the OPI or the OPI's agent estimates will require more than two hours to compile.
- 2.** If responsive documents are on file, upload to JustFOIA for further review by the City Secretary or City Attorney.
 - a) More Time Needed:** If you are unable to provide the documents within the five (5) day deadline the City Secretary must be notified that more time is needed to compile the responsive information; requests exceeding the 10 day deadline must also include an approximate date when compilation will be completed.
- 3.** After receiving the responsive documents, the City Secretary will review the information and determine the following:
 - a) Redactions:** the City Secretary will review the information to determine

if it includes any information that must be redacted or withheld because it is confidential by law or subject to a discretionary exception to disclosure.

- b) **Responsiveness:** the City Secretary will ensure documents provided are responsive to the request and will communicate with personnel if further review is needed.
4. The City Secretary shall promptly, but no later than ten (10) business days from the day the request was received, respond to the requester with one of the following:
- a) **Cost Estimate or Clarification:** Send letter requesting clarification or accepting charges as provided in the cost estimate.
 - b) **More Time Needed:** Send letter notifying requester that personnel will need more time to compile the responsive documents to include an approximate date when the documents will be available.
 - c) **No Redaction:** Provide the requester with the responsive documents and close the request.
 - d) **Routine Redaction:** Provide requester with the responsive documents including a log or documentation of redactions performed and section of corresponding code. *Note: JustFOIA automatically generates redaction log.*
 - e) **Website Link:** The City will be deemed to have complied with the Act by referring the requester to the exact Internet location or uniform resource locator (URL) address on the City's website where the document can be downloaded. However, if a Requester indicates they would prefer the information in a physical format the information should promptly be provided.
 - f) **Attorney General Ruling:** Send letter notifying requester that the City is seeking an Attorney General ruling regarding the request.
 - g) **Third Party Request:** Send third party notification letter to requester.

G. Questions: The Act does not require the City to answer questions. However, it is the primary duty of City officials and employees to serve the citizens of Dripping Springs.

Accordingly, when a written request is submitted through an approved method seeking answers to specific questions, but does not specify what, if any, documentation is being sought, the City Secretary or their designee will proceed as follows:

1. If questions are submitted via email or physical documents, upload the request to the JustFOIA system.
2. Make a good faith attempt to identify any documents that may answer the questions and forward it to personnel for processing. For example, if the requester is asking when a Certificate of Occupancy was issued, provide the issued

certificate.

3. If unable to identify documents, the City Secretary shall seek clarification noting that the Act does not require the City to answer questions and that the requester needs to provide the type(s) of documents they are seeking.

Citizen requests seeking the answers to questions not submitted in writing do not need to be considered requests submitted under the Act. However, any request for any kind of documentation (paper or electronic copies) should be considered a request submitted under the Act, reduced to writing and processed in accordance with these procedures and the Act.

H. Responding to Third Party Request: Section 552.305 relieves the City of its duty to state which exemptions apply to information requested that implicates a third party's privacy or property interests and puts this burden on the third party and the Attorney General. Third Party request shall be processed using the following guidelines:

1. The City Secretary shall determine if the request is asking for third party information. Third parties (also referred to as vendors) are individuals or entities that have provided the City with their proprietary or confidential information so that they may enter into an agreement with the City. The most common are potential vendors that submit bids for City projects.
2. If the request is for third party information the City Secretary shall, within a reasonable time not later than the 10th business day after the request was received, send notification letters to the requester, third party and Attorney General.
3. The requester letter shall notify them that the information they are seeking contains third party information and that the City is providing the third party an opportunity to make arguments to withhold information under Texas Government Code Section 552.305 and must only include:
 - a) copy of notification letter sent to third party(s); and
 - b) copy of notification letter sent to Attorney General
4. The third party letter shall notify the party(s) that their proprietary information has been requested and that they are entitled to make arguments to the Attorney General to withhold information they believe to be proprietary. An example of the third party letter is available on the Attorney General website and must include:
 - a) a copy of written request for information received by the City;
 - b) a copy of responsive documents that are on file;
 - c) a copy of notification letter sent to the Attorney General; and
 - d) a statement, in the form prescribed by the Attorney General, that the third party is entitled to submit in writing to the Attorney General each reason the person has as to why the information should be withheld,

and a letter, memorandum, or brief in support of that reason.

5. The City Secretary shall coordinate with the City Attorney the letter to the Attorney General regarding the third party request. The letter shall include the following:
 - a) a copy of written request for information;
 - b) copies of letters sent to requester and third party;
 - c) a copy of responsive documents provided to the third party; and
 - d) if the City seeks to withhold any information in addition to what the third party may submit, a letter, memorandum, or brief as to the reason(s) the information should be withheld.
6. The Attorney's General office will contact the City once their determination has been made and provide the City with the responsive documents marking the information to be withheld and the reason(s) why.
7. Within a reasonable time, but no later than the 10th business day after the receipt of the request, the City Secretary shall provide the requester with the responsive documents with redactions as instructed by the Attorney General, including reasons for the redactions.

I. Responding to Requests for Non-Confidential Information:

1. **Release Requested Documents:** If responding to the request does not incur any charges and there are no concerns regarding the confidentiality of the requested information, the City Secretary shall promptly send responsive documents no later than ten (10) business days from the date of the request.
2. **Request for Additional Time:** If there are no confidentiality concerns regarding the requested information, but the information requested cannot be promptly produced because of the number of documents sought or availability of records, the City Secretary shall notify the requester, in writing, of an estimated date and time on which the responsive information will be available.
3. **Cost Estimate:** If there are no confidentiality concerns regarding the requested information, but it will incur charges of more than fifteen dollars (\$15.00) the City Secretary shall generate an itemized cost estimate letter and send it to the requester as soon as possible, but no later than ten (10) business days from the date of the request.
4. **Automatic Redactions:**
 - a) The Attorney's General Office and/or the Texas Legislature has held that a city may redact the information listed below without the necessity of requesting a decision from the Attorney General. Therefore, any documents requested that include any of the following information shall be immediately redacted and promptly produced to the requester without seeking the Attorney's General permission.

- i. a direct deport authorization form;
 - ii. a Form I-9, W-2 and W-4 including any attachments;
 - iii. a Form DD-214 or other military discharge record that is first recorded or first comes into the possession of a governmental body on or after September 1, 2003;
 - iv. a certified agenda and tape of a closed meeting;
 - v. a fingerprint;
 - vi. L-2 and L-3 declarations;
 - vii. a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, the portion of a photograph that reveals a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number**;
 - viii. a credit card number, debit card number, charge card number, insurance policy number, bank account number, bank routing number, or access device number**;
 - ix. an e-mail address of a member of the public unless provided to the City for the conduct of official business;
 - x. a social security number of a living person;
 - xi. the home address, home telephone number, emergency contact information, or information that reveals whether the person has family members of an employee, official or peace officer who has elected in writing that they wish to keep this information private **; and
 - xii. information maintained by a family violence shelter center or sexual assault program**.
- b)** If the City is redacting or withholding information denoted above with a double asterisk, the City shall provide the following information (the JustFOIA system automatically creates a record of redactions and reasons):
- i. a description of the redacted or withheld information;
 - ii. a citation to the section of the Act allowing the redaction;
 - iii. instructions regarding how the requester may seek a decision from the Attorney General regarding whether the redacted or withheld information is excepted from required disclosure.
- c)** If the requester allows for the automatic redaction, as indicated on the City prescribed public information request form, the City may automatically redact that information.

J. Responding to Requests for Confidential or Exempted Information

1. Attorney General Rulings: If the City Secretary identifies information is confidential or exempted from public disclosure and there has not been a previous determination about whether the information falls within one of the exceptions, the City must ask for a ruling from the Attorney General about whether the information is exempted from disclosure.

- a) The City Secretary shall ask for a decision by submitting a letter requesting a ruling to the Attorney's General Office - Open Records Division using the e-file portal on the Attorney's General website. If the documents provided exceed the amount allowed on the portal, documents may be sent via Certified Mail or by hand delivery.
- b) The request for ruling letter must state the exceptions that apply to the requested documents and include all information required by the Act.
- c) The request for ruling letter must be submitted to the Attorney's General Office within a reasonable time but not later than the 10th business day after the date of receiving the written request. This letter is sometimes be referred to as a "10-day letter."
- d) If the City seeks a ruling from the Attorney's General Office, the City Secretary or City Attorney's Office must provide a copy of the 10-day letter, redacted, if necessary, and without attachments, to the requester via the JustFOIA portal or by certified mail within a reasonable time but not later than the 10th business day after the date of receiving the requester's written request.
- e) If a ruling from the Attorney's General Office has been requested, within fifteen (15) business days of receipt of the request the City Secretary or the City Attorney's Office must submit via the e-file portal on the Attorney's General website written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld. This letter is sometimes referred to as a "15-day brief." The following must be included with the brief:
 - i. a copy of the written request for information;
 - ii. a signed statement as to the date on which the written request for information was received by the City or evidence sufficient to establish that date; and
 - iii. a copy of the specific information requested, or a representative sample of the information, if a voluminous amount of information was requested, labeled to indicate which exceptions apply to which parts of the copy.
- f) Not later than the 15th business day after the date of receiving the written request, the City Secretary or the City Attorney's Office must forward a copy of the 15-day brief, redacted if necessary, and without

attachments, to the requester via the JustFOIA portal or by certified mail.

K. Legal Consultation for Disclosure Exceptions: If the City Secretary has a question or concern regarding the confidentiality of responsive information, the City Secretary will immediately forward said question or concern along with the written request and responsive documents to the City Attorney's Office for review. Any requests concerning the following individuals or subjects must be immediately forwarded to the City Attorney's Office, for review:

1. Juveniles
2. Sexual assault/abuse/harassment
3. Attempted Suicide
4. Traffic accidents
5. Medical conditions
6. References to an individual's mental or physical injuries or defects
7. Personal financial information
8. Law enforcement investigations
9. Domestic violence
10. Body Worn Camera footage
11. Police officer personnel files
12. Pending litigation

IV. Policies Regarding Confidential and Discretionary Exceptions

A. Request Affecting Critical Infrastructure: The Texas Homeland Security Act ("HSA"), Section 418.181 of the Texas Government Code, makes documents or portions of documents confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. The Attorney's General Office has held that the fact that information may relate to a governmental body's security concerns does not make the information per se confidential under the HSA. A City asserting confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provisions.

1. The Attorney's General Office has held that information that identifies the physical locations and technical details of critical infrastructure, including the City's electrical systems, water distribution system, sewer system, as well as the locations of gas lines, telephone lines, and fire hydrants is excepted from disclosure pursuant to the HSA.
2. The City asserts, by adopting this policy, that the City's electrical, water and wastewater utilities are part of the City's critical infrastructure for purposes of section 418.181. Release of any information, including site plans or as-built

surveys, which include information regarding the City's treatment plants, lift stations, or elevated storage tanks would expose this critical infrastructure to possible acts of terrorism and criminal activity by exposing potential vulnerabilities in the critical infrastructure.

3. Accordingly, it is the policy of the City to seek the Attorney's General permission to withhold any information that references or details the City's treatment plants, lift stations, or elevated storage tanks.

B. Requests for Agency Memoranda (Deliberative Process Privilege): Section 552.111 of the Government Code excepts from disclosure an interagency or interagency memorandum or letter that would not be available by law to a party in litigation with the agency. This exception encompasses the deliberative process privilege. This is a discretionary exception, the purpose of which is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. Section 552.111 excepts from disclosure:

1. internal Communications, including communications between the City and a third party with a privity of interest, which consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body; and
2. a preliminary draft of a document intended for public release in its final form as it necessarily represents the drafter's advice, opinion, and recommendation with regard to the form and content of the final document.

It is the policy of the City to seek the Attorney's General permission to withhold any information that the City Secretary, in consultation with the City Attorney's Office, believes reflects the policymaking process of the City.

C. Requests for Information Related to Certain Legal Matters:

1. **Attorney Client Communications:** Section 552.107 of the Government Code excepts from public disclosure information that the Attorney General or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct. The Texas Supreme Court has held the Texas Rules of Evidence and Texas Rules of Civil Procedure are "other law" within the meaning of section 552.022.

Texas Rule of Evidence 503 encompasses the attorney-client privilege which generally allows a client to refuse to disclose and to prevent any other person from disclosing confidential communications made to facilitate the rendition of professional legal services to the client.

It is the policy of the City to seek the Attorney's General permission to withhold any information that the City Secretary, in consultation with the City Attorney's Office, believes to be a confidential attorney-client communication.

2. **Attorney Work Product:** Texas Rule of Civil Procedure 192.5 encompasses the

attorney work product privilege. "Attorney work product" is confidential under rule 192.5 if it reveals an attorney's core work product. Core work product is the work product of an attorney or an attorney's representative, developed in anticipation of litigation or for trial, which contains the mental impressions, opinions, conclusions, or legal theories of the attorney or the attorney's representative.

It is the policy of the City to seek the Attorney's General permission to withhold any information that the City Secretary, in consultation with the City Attorney's Office, believes to be confidential attorney work product.

- 3. Requests Regarding Litigation:** Section 552.103 of the Government Code provides exception from disclosure information relating to pending or anticipated litigation of a civil or criminal nature to which the City is or may be a party or to which an officer or employee of the City, as a consequence of the person's office or employment, is or may be a party. Section 552.103 is a discretionary exception the purpose of which is to enable a City to protect its position in litigation by forcing parties seeking information relating to the litigation to obtain such information through discovery procedures.

It is the policy of the City to seek the Attorney's General permission to withhold any information that the City Secretary, in consultation with the City Attorney's Office, believes to be related to pending or anticipated litigation.

D. Requests Regarding Real Estate and other Competitive Bidding

- 1. Location or Price of Property:** Section 552.105 of the Government Code excepts from disclosure information relating to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. Section 552.105 is a discretionary exception designed to protect the City's planning and negotiating position with respect to particular transactions.

It is the policy of the City to seek the Attorney's General permission to withhold any information that the City Secretary, in consultation with the City Attorney's Office, believes if released, would impair, or tend to impair the City's planning and negotiating position in regard to particular transactions.

- 2. Competition or Bidding:** Section 552.104(a) of the Government Code excepts from disclosure information that, if released, would give advantage to a competitor or bidder. Section 552.104 is a discretionary exception that allows the City to withhold information if knowing another bidder's or competitor's information would be an advantage.

It is the policy of the City to seek the Attorney's General permission to withhold any information that the City Secretary, in consultation with the City Attorney's office, believes if released, would give advantage to a competitor or bidder.

V. Requests for Information Not Subject to the Act

- A. Requests by City Officials in their Official Capacity:** The purpose of the Act is to prescribe conditions under which members of the general public may obtain information from a

governmental body. An official of the City who, in an official capacity, requests information held by the City does not act as a member of the public in doing so. Thus, the exceptions requiring public disclosure under the Act do not control the right of access of an official of the City to information maintained by the City. Accordingly, information may be released to City officials requesting the information in their official capacity in compliance with the following policy:

1. Requests for information from a City official must be submitted to the City Secretary in writing.
2. As soon as possible, but no later than 10 business days from the receipt of the request, the City Secretary will respond to the request from the City official with either copies of the requested information, notice that the information is available for inspection, or notice that the request will be added to the next council agenda for consideration and direction.
3. Information provided in response to a request by a City official will be made available to all City officials, and City officials will not be charged for information sought in their official capacity.
4. Information that is protected by confidentiality laws and/or common law privacy laws that has no relationship to the transaction of official business, such as individuals' dates of birth, social security numbers, and personal financial information, will be redacted prior to release to City officials.
5. The City Secretary will mark all information provided in response to a request from a City official as "Confidential – For Official Eyes Only."

Any employee or City official who has access to confidential information pursuant to this policy must maintain the confidentiality of the information. Misuse of confidential information, including disclosing the information to person who is not authorized to receive the information or allowing an unauthorized person to inspect the information is a criminal offense.

B. Intergovernmental Transfers: Information subject to the Act may be transferred between governmental bodies without waiving exceptions to the public disclosure of that information or affecting its confidentiality. It is well-settled policy of this state that governmental agencies should cooperate with each other in the interest of the efficient and economical administration of their statutory duties. However, the transfer of confidential information from one governmental body to another is prohibited where a relevant confidentiality statute authorizes release of the confidential information only to specific entities, and the requesting governmental body is not among the statute's enumerated entities.

1. When the City receives a request from another governmental body, it is the policy of the City to exercise its discretion to voluntarily transfer unredacted copies of the requested information, if not statutorily prohibited.
2. The City Secretary is instructed to notify any governmental body that receives information through an intergovernmental transfer that the information being

sent is not a release to the general public and the receiving governmental body must keep said information confidential and immediately inform the City if said information is requested by the public so that the City may assert any applicable exceptions, if necessary.

C. Requests for Municipal Court Records: Courts and judicial branch agencies are not subject to the Act nor to the federal Freedom of Information Act. However, to ensure efficient and consistent responses to requests for information held by the judiciary it is the City's policy that requests for information held by the Dripping Springs Municipal Court be processed in accordance with these guidelines.

1. Court Case Records: Court case records are records of any nature created, produced, or filed in connection with any matter that is or has been before a court. Court case records are considered information held by the judiciary. Therefore, the Act neither authorizes this information to be withheld nor requires it to be disclosed. Access to court case records is governed by common law, other statutory law, and court rules. The Clerk of the Court serves as the custodian of court case records.

Requests from the public for court case records shall be immediately directed to the Court Clerk and processed in accordance with the following guidelines:

- a) Court case records filed with the Court are considered public and will be released to the public unless access is restricted by law or court order.
- b) The following is a non-exhaustive list of court case records that are considered records of the judiciary and therefore not subject to the Act, but are considered public records under other law and may be released to the public unless a specific court order prohibits release in a particular case:
 - i. summons and complaints;
 - ii. final judgments;
 - iii. final court orders, including orders of deferred disposition; and
 - iv. executed arrest warrants and supporting affidavits.
- c) The following is a non-exhaustive list of court case records that are considered records of the judiciary and therefore not subject to the Act, but which are subject to other law prohibiting their release to the public:
 - i. records related to charges against or the conviction of a child, for a non-traffic related offense, see Article 45.0217 of the Code of Criminal Procedure; and
 - ii. records related to the conviction of or deferral of disposition for a child, for a non-traffic related offense, see Article 45.0217 of the Code of Criminal Procedure.
- d) A request for a court case record from a defendant or attorney of record

related to a pending municipal court case shall be forwarded to the City Prosecutor and processed in accordance with applicable discovery rules.

- e) Prior to release the Court Clerk will redact any information that is confidential by law, such as dates of birth, driver's license numbers and license plate numbers, from any court case record.
- f) The Court Clerk should promptly respond to requests for court case records, but because the records are not subject to the Act the Act's deadlines do not apply. However, it is the policy of the City to, within fourteen (14) days of the request, provide the requester with either a copy of the records, or written notice of a date and time when the records will be available for duplication or inspection.

2. Judicial Records: Judicial records are records made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function. Judicial records are considered information held by the judiciary. Therefore, the Act neither authorizes this information to be withheld nor requires it to be disclosed. Access to judicial records is governed by Rule 12 of the Rules of Judicial Administration. The custodian of judicial records is the presiding judge of the Dripping Springs Municipal Court.

- a) Any request to inspect or copy a judicial record received by the City and properly directed to the Municipal Court Judge should be immediately, but no later than two (2) business days after being received, forwarded to the Presiding Judge to be processed in accordance with Rule 12 of the Rules of Judicial Administration.
- b) All requests to inspect or copy a judicial record must be in writing, must include sufficient information to identify the record, and must be directed to the records custodian, the Presiding Judge and not to a Court Clerk or other agent for the records custodian.

D. Discovery Requests for Records

1. Subpoena Duces Tecum: Section 552.0055 of the Act clearly states that a subpoena duces tecum or a request for discovery that is issued in compliance with a statute or a rule of civil or criminal procedure is not considered to be a request for information under the Act.

Accordingly, any subpoena or discovery request received by the City shall be immediately forwarded to the City Attorney's Office so that the City Attorney can prepare a response in compliance with all applicable laws.

- 2. Business Records Affidavit:** Texas Rule of Evidence 902 allows certain documents to be self-authenticated and admitted into a court proceeding if they are accompanied by a business records affidavit.
- 3.** The Act does not require the City to create documents, including a business records affidavit. Accordingly, a request for a business records affidavit to be executed is not governed by the Act. Such a request should be considered a

discovery request and should be forwarded to the City Attorney's Office to determine the necessary and appropriate response.

VI. Costs

A. Charges for Copies

1. **Administrative Code Charges Apply:** A requester may ask to inspect information, get copies of the information, or both. If charges are approved by the Act, it is the policy of the City to charge the rates found in Rule §70.3 of the Texas Administrative Code.

The City Secretary will be responsible for applying the charges in accordance with this policy, issuing cost estimates, invoicing, and collecting payment from requesters. The City Secretary will fully document the amounts, paid and unpaid, for every request in the JustFOIA system.

2. **Charges for Paper and other Physical Copies of Information:** The following are the most common fees associated with hard copies of information.

Standard and Legal size copies	\$0.10/page
Ledger size copies	\$0.50/page
Oversize copies (maps, plats, subdivision plans)	\$0.75/square foot
Postage	Actual Cost
Diskettes/CDs	\$1.00
DVDs	\$3.00
Flash Drive	Actual Cost
Labor Charges	\$18.75/hour
Overhead Charges	20% of Labor Charges

3. **Charges for Electronic Copies:** In an effort to respond to requests as efficiently as possible, it is the policy of the City to respond to a request with electronic copies whenever possible. Per page charges will not apply to copies of information provided electronically, but the following charges will apply:

- a) labor charges at the rate of \$18.75/hour for locating, compiling, manipulating data, and producing the information; and
- b) overhead at the rate of 20% of the charge made to cover any labor costs.

4. **Charges for Certified Copies:** The Act does not require the City to create documents; therefore, the City is not required to create and produce certified copies of City records. It is the City's policy to issue standard or legal-size certified copies of City records upon request for \$2.00 per page.

B. Charges for Inspection of Information

1. **Charges for Inspection of Physical Records:** If the requester does not request a copy of public information, no charge will be imposed for making the public information that exists in a paper record available for inspection unless:

- a) the information being requested completely fills, or when assembled will completely fill, six (6) or more archival boxes and would take five (5) or more personnel hours to make available;
 - b) the information being requested is more than five (5) years old and would take five (5) or more personnel hours to make available; or
 - c) a page being requested contains confidential information that must be edited from the record before the information can be made available for inspection.
- 2. Charges for Inspection of Electronic Records:** In response to a request to inspect information that exists only in an electronic medium and that is not available directly online to the requester, the City will not charge to inspect this information unless complying with the request will require programming or manipulation of data.
- a) If programming or manipulation of data is required, the City Secretary shall notify the requester before assembling the information and provide the requester with an estimate of charges. Only charges related to the time necessary to redact confidential information from electronic records meets the definition of manipulation of data.
 - b) A charge under this section will be assessed in accordance with the Act and the section of this policy related to programming or manipulation of data.

C. Waiver of Costs

- 1. Waiver for the General Public:** It is the policy of the City to waive the costs associated with producing physical or electronic copies of the information if the total is less than \$15.00 because the actual cost of processing and collecting a charge less than \$15.00 will exceed the amount of the charge.
- 2. Waiver for the Press:** It is the policy of the City to reduce the costs associated with requests made by members of the media associated with local publications by \$10.00 because providing the public information to members of the media primarily benefits the general public.

D. Communicating Costs to Requesters

- 1. Written Itemized Estimate of Charges:** If it is estimated by City staff that a request for a copy of public information will result in the imposition of a charge that exceeds fifteen dollars (\$15.00), or a request to inspect a paper record will result in the imposition of a charge that exceeds fifteen dollars (\$15.00), the City Secretary shall provide the requester with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs before compiling and redacting the responsive information.
 - a) The statement must comply with the requirements of section 552.2615

of the Texas Government Code.

- b) The statement must also notify the requester if a deposit will be required per the City's policy.
 - c) The statement must advise the requester they may contact the City if there is a less costly method of viewing the records.
 - d) The statement must notify the requester that if the cost exceeds forty dollars (\$40.00), the request will be considered automatically withdrawn if the requester does not reply to the letter.
2. **Invoices:** The City Secretary shall compile the responsive information, redact as necessary and provide the requester with an invoice for the associated charges. Said invoice must include information on how to pay.
3. **Deposits:** A deposit of fifty percent (50%) of the entire estimated amount shall be imposed when the anticipated costs for the preparation of a copy of public information exceed one hundred dollars (\$100.00).
- a) If a requester has accrued over one hundred dollars (\$100.00) of overdue and unpaid balances related to previous requests, a deposit in the amount of the unpaid amounts owing to the City must be received before the City Secretary will begin preparing a copy of public information in response to a new request.
 - b) If a deposit is required as detailed above, the request for a copy of public information is considered to have been received on the date the City receives the deposit for payment of anticipated costs or unpaid amounts.
 - c) If a requester modifies the request in response to the requirement of a deposit, the modified request is considered a separate request and is considered received on the date the City receives the written modified request.
 - d) A requester who fails to make a deposit before the 10th business day after the date the deposit is required is considered to have withdrawn the request for the copy of the public information that precipitated the requirement of the deposit or bond.

E. Requests Requiring Programming or Manipulation of Data

1. Definitions:

- a) "Manipulation" means the process of modifying, reordering, or decoding of information with human intervention.
- b) "Programming" means the process of producing a sequence of coded instructions that can be executed by a computer.

2. **Circumstances when Required:** The City shall provide to a requester written "programming or manipulation of data" statement described below if it is

determined that responding to a request will require programming or manipulation of data; and compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

3. Contents of Written Statement: The written “programming or manipulation of data” statement must include:

- a) a statement that the information is not available in the requested form;
- b) a description of the form in which the information is available;
- c) a description of any contract or services that would be required to provide the information in the requested form;
- d) a statement of the estimated cost of providing the information in the requested form; and
- e) a statement of the anticipated time required to provide the information in the requested form.

4. Timing of Written Statement: The City Secretary shall provide the written “programming or manipulation of data” statement to the requester within twenty (20) days after the date of the receipt of the request.

- a) If the City Secretary needs additional time to provide the written statement they must provide written notice to the requester, within twenty (20) days after the date of receipt of the request, that the additional time is needed.
- b) If written notice above is provided the City Secretary has an additional ten (10) days to provide the written “programming or manipulation of data” statement.
- c) After providing the requester with the written statement, the City does not have any further obligation to provide the information in the requested form or in the form in which it is available unless within thirty (30) days the requester states in writing to the City that the requester:
 - i. wants the City to provide the information in the requested form according to the cost and time parameters set out in the statement or according to other terms to which the requester and the City agree; or
 - ii. wants the information in the form in which it is available.
- d) If a requester does not make a timely written statement under the above provisions of this policy, the requester is considered to have withdrawn the request for information.
- e) The City Secretary shall maintain a file containing all programming and manipulation of data written statements issued under this section in a

readily accessible location.

- F. Requester's Response to Cost Estimate:** The requester must respond to the cost by the 10th business day after receiving the written cost estimate. The following are acceptable responses to a cost estimate. It is the policy of the City not to provide records unless payment has been received.
- 1. Requester Accepts Charges:** If the requester accepts the charges and no deposit is required, the responsive documents will be compiled and released upon receipt of payment.
 - 2. Requester Refuses/Does Not Pay:** If the requester refuses the charges or does not submit payment by the 10th business day after the date of the cost letter, the request will be considered withdrawn.
 - 3. Requester Protests Charges:** The requester may file a complaint with the Open Records Division if they believe they are being overcharged.
 - a)** The complaint must be filed no later than the 10th business day after the cost estimate is received and must be in writing and include the original request for information and a copy of the cost estimate.
 - b)** The City must respond to complaints with 10 business days upon receipt. Response must be in writing and submitted to the Open Records Division.
 - c)** After receiving the City's response, the Open Records Division will make a determination as to the appropriate charges.