

CITY OF DRIPPING SPRINGS

ORDINANCE No. 1005.1

PUBLIC INFORMATION POLICY

AN ORDINANCE ENACTING VOLUME 1, ARTICLE 1, CHAPTER 6 OF THE DRIPPING SPRINGS CODE OF ORDINANCES; ESTABLISHING REGULATIONS FOR SUBMITTING, RECEIVING, AND PROCESSING REQUESTS FOR PUBLIC INFORMATION; AND PROVIDING FOR THE FOLLOWING: RULES; STANDARDS; PROCEDURES; CRIMINAL PENALTIES; AND, SEVERABILITY

WHEREAS, the City Council of the City of Dripping Springs is a governmental body subject to the mandates of the Texas Public Information Act, Chapter 552 of the Texas Government Code; and

WHEREAS, the Texas Public Information Act mandates the disclosure of some data, and prohibits the release of other data; and

WHEREAS, the Public Information Act provides civil and criminal penalties for not publicly disclosing data that is open, and for disclosing data which is confidential; and

WHEREAS, the City of Dripping Springs is a small organization with limited resources, thus necessitating the efficient operation of City business; and

WHEREAS, section 552.230 the Public Information Act grants the City authority to promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay; and

WHEREAS, the City Council finds that the following rules of procedure are reasonable and justified, and shall further the public interest in the effective and efficient management of public information; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dripping Springs:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Volume 1, Article 1, Chapter 6 of the City of Dripping Springs Code of Ordinances is hereby established, and after such shall read in accordance with *Attachment A*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance. Any statement or directive within the attached policy that is found to be incorrect, inapplicable or contrary to state law shall not affect the validity of the remaining contents of such statement, directive or other provisions of this policy.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this, the 8th day of March 2005, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS

by: _____
Mayor Todd Purcell

ATTEST:

Amanda Craig, City Secretary

APPROVED AS TO FORM:
Alan J. Bojorquez, Special Counsel

Attachment “A”

VOLUME: 1

ARTICLE 1: ADMINISTRATION

CHAPTER 6: PUBLIC INFORMATION

1. ENACTMENT PROVISIONS

1.1. Popular Name

This Ordinance shall be commonly cited as the “Public Information Policy.”

1.2. Purpose

This Chapter provides standards for requesting, processing, disclosing and withholding City records. This policy is a guide for conducting City business in a professional and uniform manner. This policy is designed to assist in bringing to the City operations an understanding, cooperation and efficiency in handling requests for public information through the application of uniform procedures. The objectives of this policy are to:

- (a) promote and increase efficiency, responsiveness to the public, and the economy in City government; and
- (b) provide a fair and equal opportunity for obtain access to information; and
- (c) reduce duplication of efforts and increases the efficiency with which requests are handled.
- (d) demonstrate the City’s commitment to an informed citizenry so to further the public’s control over the instruments they have created.

1.3. Scope

This Chapter applies to all data, documents, forms, and information managed or possessed by the City. This Chapter applies to all requests for information submitted to the City after the date of enactment.

2. DEFINITIONS

2.1. General

Words and phrases used in this Chapter shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinance shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the

singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

2.2. Specific

Business Days: Those regular days when the CITY Hall is open for business. The term excludes Saturdays, Sundays, and official CITY holidays.

City: The City of Dripping Springs, an incorporated municipality located in Hays County, Texas.

City Administrator: The chief administrative officer appointed by the City Council. The term includes and applies to the Deputy City Administrator, or her designee.

City Secretary: The chief records manager appointed by the City Council.

City Hall: The City's administrative office building located at 550 E. Hwy 290 West, Dripping Springs, Texas.

Days: Regular calendar days wherever used in the policy without specification of "business days".

Department: Each individual segment of the City organization.

Employees: Those human individuals who work for the City of Dripping Springs in exchange for financial compensation. The term includes both full-time and part-time workers. The term does not include independent contractors or volunteers.

Officer for Public Information: The City Secretary, or the City Secretary's designee.

Person: A human individual, corporation, association or agency.

Public Information: All data that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official City business by any department. It also includes data the City owns or has a right of access to but was prepared or stored by a third party. Examples of media in which information may exist include: (1) paper; (2) film; (3) a magnetic, optical, or solid state device that can store an electronic signal; (4) tape; (5) mylar; (6) linen; (7) silk; and (8) vellum. The general forms in which the media containing public information exist, include a book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video held in computer memory. Note that certain categories of information are considered "public information" that is not excepted from disclosure unless expressly confidential by law. This term shall be

construed in accordance with Chapter 552 of the Public Information Act, as may be amended.

3. INFORMATION MANAGEMENT

3.1. Conflicts

This Chapter is a guide for City employees and officers. It should in no way be construed as modifying state laws regarding disclosure of public information or the retention of local government records. This Chapter is to be read in harmony with such other City policies and state statutes when possible so as to give effect to the stated purpose of this Chapter.

3.2. Record Retention

All “local government records”, as defined by the Local Government Records Act, Chapter 201, Texas Local Government Code, as may be amended, shall be maintained in compliance with that statute and any other relevant City policies. All mandatory retention periods established by the records retention schedule shall be closely observed. This policy is to be interpreted and implemented in harmony with any and all records retention schedules.

3.3. Records Management

This policy is to be interpreted and implemented in harmony with any and all Records Management Program(s) adopted by each elected City officer pursuant to Chapter 203 of the Texas Local Government Code.

4. PROCESSING INFORMATION

4.1. Written Requests

- 4.1.1. All requests for information submitted to the City must be in writing.
- 4.1.2. Oral requests for information shall not be processed. Persons requesting information orally shall be offered an Application for Information.

4.2. Requirements

In order to be considered administratively complete, a request for information must contain the following:

- (a) Requestor’s name; and
- (b) Requestor’s mailing address (for receipt of US Mail); and
- (c) Requestor’s telephone number; and
- (d) Written description of the information sought; and
- (e) Whether the requestor wants to inspect the information in person or prefers to be provided with copies.

4.3. Applications

- 4.3.1. The City utilizes a standard form entitled “Application for Information.” Applications shall be provided by the City to members of the public upon request either in person, by facsimile, by electronic mail, or by US Mail.
- 4.3.2. Upon receipt of a written request for information that is not accompanied by an Application, yet contains all of the required information, the employee or officer receiving the request shall prepare an Application for the request.
- 4.3.3. Upon request, City employees and officers shall assist citizens with disabilities in completing an Application when circumstances permit.

4.4. Submissions

- 4.4.1. All requests for information must be directed to the City Secretary as follows:

Dripping Springs City Secretary
550 E. Highway 290 West
Post Office Box 384
Dripping Springs, Texas 78620
Fax: 512.858.5646
E-mail: dscityhall@zeecon.com

- 4.4.2. The burden is on the Requestor to comply with the mandates of this Chapter. The City shall not be obligated to respond to information requests sent to erroneous addresses.

4.5. Method of Submission

A written request for information by Hand-Delivery, Facsimile (Fax), US Mail, Overnight Delivery, or via electronic mail (e-mail).

4.6. Date Stamp

Any employee or officer receiving a request for information, whether as an Application or in another form, must immediately make a notation on the document as to the date it was received. A space for this data is expressly provided for on the Application. An official stamp shall be designated by the City Secretary.

4.7. Request Log

The City will maintain a list that indicates the disposition of all requests for information, including a tracking number by which the request will thereafter be referenced.

4.8. Coordination with City Secretary

- 4.8.1. **Forward:** All requests for information received by officers or employees shall be sent to the City Secretary within twenty-four (24) hours of being received.
- 4.8.2. **Status:** The City official forwarding the copy shall clearly indicate the status of the request on the accompanying Application.
- 4.8.3. **Centralization:** Compliance with this provision also provides a central database for the management of information requests.

4.9. **Timeliness**

- 4.9.1. **Promptness:** All requests for information must be processed promptly and without delay.
- 4.9.2. **Estimated Timeline:** If the City is unable to locate, compile and otherwise prepare the requested information for public disclosure within ten (10) business days, the City must notify the requestor in writing providing the requestor with an estimated date and hour within a reasonable time for duplication or inspection.
- 4.9.3. **AG Opinion:** If the City is going to seek a decision from the Attorney General regarding whether the requested information is subject to public disclosure, it must seek such a decision within ten (10) business days of receipt.
- 4.9.4. **Fee Estimation:** If the City is going to impose a charge upon the requestor exceeding forty dollars (\$40), the City must provide written notice to the requestor within twenty (20) days.
- 4.9.5. **Format:** If the requested information is not available in the requested form, the City must notify the requestor within twenty (20) days.

4.10. **Disposition**

The time, date and nature of response for each request shall be noted on the Application by the City official handling the request.

4.11. **Uniformity**

- 4.11.1. **Equal Treatment:** All requests for information are to be treated uniformly without regard to the requestor's identity, motives, or method of submission so long as the request is in writing.
- 4.11.2. **Unique Situations:** Requests may be handled differently if the circumstances dictate, such as when a requestor is directly involved in litigation with the City and disparate treatment is necessary to comply with court orders or rules of legal procedure.

5. CHARGES FOR INFORMATION

5.1. **Full Cost Recovery**

To the extent possible, the costs of responding to particular requests for information are to be born by the requestor and not by the citizens of the City of Dripping Springs. All requests for information are subject to reasonable charges that include the costs related to reproducing information such as the costs of materials, labor and overhead, as allowed by law. The City follows the guidelines established by the Texas Building and Procurement

Council (“TBPC”, formerly the “Texas General Services Council”), when applicable. Exceptions can be made in those rare and unusual situations in which the City Secretary determines that waiving charges is in the public interest.

5.2. Charges for Copies

5.2.1. **Exempt:** If there are fifty (50) or fewer pages of information that are responsive to a request, the charge shall be ten cents (\$.10) per page. There shall be no charge for labor or overhead.

5.2.2. **Labor & Overhead:** If there are fifty-one (51) or more pages of information that are responsive to a request, the charge shall be ten cents (\$.10) per page plus labor and overhead. All charges shall conform to the TBPC guidelines. See 1 TAC §111. 63.

5.2.3. **Charges for Inspection:** The City will not charge for making available for inspection data maintained in standard paper form. Charges are permitted only where the City is asked to provide for inspection information that either:

- (a) contains confidential data and public information that must be edited; or
- (b) includes certain information that is old or voluminous, pursuant to 1 TAC §111.65.

5.2.4. **Outstanding Balance Due:** The City will require the payment of all outstanding balances due from a requestor for previous information requests that were prepared by the City, and for which the requestor was notified yet failed to pay the assessed charges. The City is not obligated to process new requests for information until the outstanding balances have been paid in full.

5.3. Itemized Estimate

5.3.1. **Estimates Provided:** If a request for information will result in the imposition of a charge that exceeds \$40, the City shall provide the requestor with an itemized written estimate in accordance with Tex. Gov’t Code Ann. § 552.2615. A copy of the estimate shall be sent to the City Secretary. The estimate will identify the request by the tracking number it was assigned upon receipt by the City. If an alternative less costly method of viewing the records is available, the statement must include a notice of the alternative method.

5.3.2. **Withdrawal:** A request is considered to have been withdrawn by operation of law if the requestor fails to respond in writing to the itemized statement within ten (10) business days after the statement is sent to the requestor that:

- (a) the requestor will accept the estimated charges; or

(b) the requestor is modifying the request in response to the itemized statement.

5.3.3. **Consent Required:** In order to avoid incurring costs that the requestor might ultimately refuse to pay, City employees and officers shall not process a request for information until after the requestor has responded as provided above.

5.4. Programming or Manipulation of Data

If a Requestor asks that information be provided on a diskette or other computer-compatible media, and the requested information is electronically stored, the City shall provide the information on computer-compatible media if the City has the technological capability to do so. The City is not required to purchase any hardware, software or programming capabilities that it does not already possess to accommodate a particular kind of request. If the City does not have the required technological capabilities to comply with the request in the format preferred by the Requestor, the City shall proceed in accordance with §552.228(c) of the PIA and 1 TAC § 111.66.

SECTION 6. PROHIBITION

6.1. Unauthorized Access

It shall be unlawful for any person other than a City officer or employee to open City filing cabinets, drawers, binders, or file storage boxes at City Hall without the express permission of the City Administrator or City Secretary.

6.2. Unauthorized Removal

It shall be unlawful for any person other than a City officer or employee to remove documents, forms, files, information or data from City Hall without the express permission of the City Administrator or City Secretary.

6.3. Unauthorized Destruction

It shall be unlawful for any person other than a City officer or employee to destroy, deface, obscure, tear, shred, or dispose of documents, forms, files, information or data from City Hall without the express permission of the City Administrator or City Secretary.

6.4. Unauthorized Disclosure

It shall be unlawful for any person to disclose to the public any confidential documents, forms, files, information or data from City Hall without the express permission of the City Administrator or City Secretary.

SECTION 7. ENFORCEMENT

7.1. Dissemination

All employees and officers shall be informed of the existence of these policies. All City departments shall keep copies available for reference by employees and officers. Failure

to reasonably comply with this policy shall be grounds for employee discipline up to and including termination.

7.2. Civil and Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

7.3. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

7.4. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- (a) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- (b) a civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
- (c) other available relief.