

CITY OF DRIPPING SPRINGS

ORDINANCE No. 2019-11

AN ORDINANCE AMENDING DIVISION 2. PUBLIC INFORMATION POLICY OF THE DRIPPING SPRINGS CODE OF ORDINANCES; ESTABLISHING STANDARDS FOR REQUESTING, PROCESSING, DISCLOSING, AND WITHHOLDING CITY RECORDS; PROVIDING FOR THE FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; CODIFICATION; EFFECTIVE DATE; AND PROPER NOTICE & MEETING.

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) seeks to provide standards for requesting, processing, disclosing, and withholding records of the City of Dripping Springs, Texas (“City”); and

WHEREAS, the City Council desires to adopt a public information policy as a guide for conducting city business in a professional and uniform manner; and

WHEREAS, the City Council finds that such policy will promote and increase efficiency, responsiveness to the public and economy in city government; and

WHEREAS, the City Council finds that such guidelines will also provide a fair and equal opportunity for obtaining access to information; and

WHEREAS, the City Council finds that reducing the duplication of efforts and increase the efficiency with which requests are handled is necessary; and

WHEREAS, the City Council finds that such guidelines will demonstrate the city’s commitment to an informed citizenry so as to further the public’s control over the instruments they have created; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City to adopt an ordinance adopting a public information policy.

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

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

Division 2 of the City of Dripping Springs Code of Ordinances is hereby amended to read in accordance with Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated on *Attachment A*.

The Public Information Policy is adopted as stated in

3. REPEALER

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resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.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

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

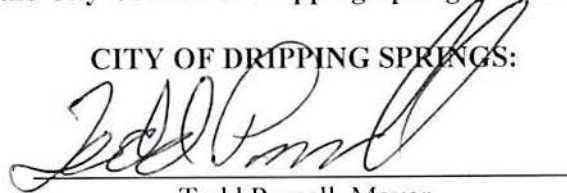
This Ordinance shall be effective immediately upon passage and publication of caption.

7. PROPER NOTICE & 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 & APPROVED this, the 12th day of March 2019, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:



Todd Purcell, Mayor

ATTEST:



Andrea Cunningham, City Secretary



Division 2. Public Information Policy

Sec. 2.03.031 Title

This division shall be commonly cited as the public information ordinance.

Sec. 2.03.032 Purpose

This division provides standards for requesting, processing, disclosing, and withholding city records. ~~This Division provides for the adoption of a public information policy is as 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:~~ shall be:

- (1) Promote and increase efficiency, responsiveness to the public, and economy in city government;
- (2) Provide a fair and equal opportunity for obtaining access to information;
- (3) Reduce duplication of efforts and increase the efficiency with which requests are handled; and
- (4) Demonstrate the city's commitment to an informed citizenry so as to further the public's control over the instruments they have created.

Sec. 2.03.033 Scope

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

Sec. 2.03.034 Definitions

(a) Rules of interpretation. Words and phrases used in this division shall have the meanings set forth in this section unless a conflicting definition appears in state law. 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 Ordinances or under Chapter 552 of the Government Code, the Public Information Act, 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.

(b) Specific definitions.

~~Business days. Those regular days when the city hall is open for business. The term excludes Saturdays, Sundays, and official city holidays.~~

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 hall. The city's administrative office building located at 550 E. Hwy 290 West, Dripping Springs, Texas.

City secretary. The chief records manager and public information officer appointed by the city council.

~~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 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.

Public Information Act. The Texas Public Information Act, Chapter 552 of the Texas Government Code.

~~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 that was prepared or stored by a third party. Examples of media in which information may exist include paper; film; a magnetic, optical, or solid state device that can store an electronic signal; tape; mylar; linen; silk; and 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 [Government Code chapter 552], as may be amended.~~

(Ordinance 1005.1, ex. A, sec. 2, adopted 3/8/05)

Sec. 2.03.035 — Enforcement; penalties

~~(a) — Dissemination of policy. 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.~~

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

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

~~(d) — Civil remedies. Nothing in this division shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this division and to seek remedies as allowed by law, including but not limited to the following:~~

~~(1) — Injunctive relief to prevent specific conduct that violates this division or to require specific conduct that is necessary for compliance with this division; and~~

~~(2) — 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 this division and after receiving notice committed acts in violation of this division or failed to take action necessary for compliance with this division; and~~

~~(3) — Other available relief.~~

~~(Ordinance 1005.1, sec. 7, adopted 3/8/05)~~

Sec. 2.03.036—035 Information management

(a) Conflicts. This division 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 division 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 division.

(b) 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.

(c) 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.

~~Sec. 2.03.037—Submission and processing of requests for information~~

~~(a) — Written request required.~~

~~(1) — All requests for information submitted to the city must be in writing.~~

~~(2) — Oral requests for information shall not be processed. Persons requesting information orally shall be offered an application for information.~~

~~(b) — Contents of request. In order to be considered administratively complete, a request for information must contain the following:~~

~~(1) — Requestor’s name;~~

~~(2) — Requestor’s mailing address (for receipt of U.S. mail);~~

~~(3) — Requestor’s telephone number;~~

~~(4) — Written description of the information sought; and~~

~~(5) — Whether the requestor wants to inspect the information in person or prefers to be provided with copies.~~

~~(c) — Applications.~~

~~(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 U.S. mail.~~

~~(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.~~

~~(3) — Upon request, city employees and officers shall assist citizens with disabilities in completing an application when circumstances permit.~~

~~(a) (d) — Address for submissions.~~

~~(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~~

~~(2) — The burden is on the requestor to comply with the mandates of this division. The city shall not be obligated to respond to information requests sent to erroneous addresses.~~

~~(e) — Method of submission. A written request for information [shall be submitted] by hand delivery, facsimile (fax), U.S. mail, overnight delivery, or via electronic mail (e-mail).~~

~~(f) — 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.~~

~~(g) — 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.~~

~~(h) — Coordination with city secretary.~~

~~(1) — Forwarding to city secretary. All requests for information received by officers or employees shall be sent to the city secretary within twenty four (24) hours of being received.~~

~~(2) — Indication of status. The city official forwarding the copy shall clearly indicate the status of the request on the accompanying application.~~

~~(3) — Centralization. Compliance with this provision also provides a central database for the management of information requests.~~

~~(i) — Timeliness.~~

~~(1) — Promptness. All requests for information must be processed promptly and without delay.~~

~~(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.~~

~~(3) — Attorney general opinions. 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) — Fee estimation. If the city is going to impose a charge upon the requestor exceeding forty dollars (\$40.00), the city must provide written notice to the requestor within twenty (20) days.~~

~~(5) — Format. If the requested information is not available in the requested form, the city must notify the requestor within twenty (20) days.~~

~~(j) — Disposition. The time, date and nature of response for each request shall be noted on the application by the city official handling the request.~~

~~(k) — Uniformity.~~

~~(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.~~

~~(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.~~

~~(Ordinance 1005-1, ex. A, sec. 4, adopted 3/8/05)~~

Sec. 2.03.038 — 036 Charges for information

(a) Full cost recovery. To the extent possible, the costs of responding to particular requests for information are to be borne by the requestor and not by the citizens of the city. 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 state state building and procurement commission (TBPC, formerly the state 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.

(b) Charges for copies and inspection.

(1) Copy charge. ~~If there are fifty (50) or fewer pages of information that are responsive to a request, the charge shall be ten cents (\$0.10) per page for 8 ½ x 11 black and white copies. There shall be no charge for labor or overhead.~~

(2) Labor and overhead. Labor and overhead shall be charged as allowed by Chapter 552, Texas Government Code, Public Information Act and related rules adopted pursuant to the Public Information Act. ~~If there are fifty one (51) or more pages of information that are responsive to a request, the charge shall be ten cents (\$0.10) per page plus labor and overhead. All charges shall conform to the TBPC guidelines. See 1 TAC section 111.63.~~

~~(3) — Charge 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 section 111.65.~~

~~(4) — Payment of outstanding balances 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.~~

~~(c) — Itemized estimate.~~

~~(1) — Written estimate to be provided. If a request for information will result in the imposition of a charge that exceeds \$40.00, the city shall provide the requestor with an itemized written estimate in accordance with Tex. Gov't Code Ann. section 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.~~

~~(2) — Response by requestor; withdrawal of request. 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.~~

~~(3) Consent required prior to processing. 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.~~

~~(dc) Computer-compatible media. If a requestor asks that information be provided on a flash drive, computer 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 the Texas Public Information Act, section 552.228(e) of the PIA and 1 TAC section 111.66.~~

~~(d) Other Charges. All other fees shall be charged in accordance with the City's public information policy, the Public Information Act, and the rules adopted in accordance with the Public Information Act.~~

Sec. 2.03.039—037 Prohibited acts

(a) Unauthorized access to records. 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.

(b) Unauthorized removal of records. 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.

(c) Unauthorized destruction of records. 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.

(d) Unauthorized disclosure of information. 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.

Secs. 2.03.040038–2.03.060 Reserved