



PUBLIC INFORMATION ACT POLICY

1.0 PURPOSE

This Administrative Regulation establishes policy and procedure for handling all requests for public information.

2.0 KEY WORDS

- 2.1 Public Information
- 2.2 Open Records Act
- 2.3 Public Information Act

3.0 DEPARTMENTS AFFECTED

All departments are responsible for complying with the terms of this Administrative Regulation. Municipal Court records may be excluded.

4.0 SPECIAL DISTRIBUTION

All staff dealing with or responsible for responding to requests for access to or copies of public information.

5.0 REFERENCES

- 5.1 Public Information Act, Chapter 552, Texas Government Code (“Act”).
- 5.2 Cost Regulations, as set forth in §§ 552.261 - .274, Texas Government Code and Texas Administrative Code, Chapter 70 (“TAC”). For purposes of this policy the Texas Government Code will be referred to as the “Code”.

6.0 DEFINITIONS

- 6.1 Public Information – The Act defines “public information” as all information collected, assembled, or maintained under a law or ordinance or in connection with the daily transaction of official business by the City government or for the

City government and the City government owns the information or has a right of access to it.

The media on which public information is recorded 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, letter, paper, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, drawing, and a voice, data, or video representation held in computer memory.

- 6.2 Public Information Requests – All written requests for public information fall under the provisions of the Public Information Act. This includes any correspondence, standard form document, facsimile, email communication, or other writing that requests information. The City has a form that can be used to request public information, but **USAGE OF THE FORM IS NOT REQUIRED**. It is the City’s policy to request that a requestor to submit a request for public information in writing via the City’s designated form or the City’s website.
- 6.3 Manipulation - The process of modifying, reordering, or decoding information with human intervention.
- 6.4 Standard/Nonstandard Copies
- 6.4.1 Standard Copies – Printed impressions on paper that measures up to 8½ by 14 inches. Each side of a piece of paper on which an impression is made is counted as a copy.
- 6.4.2 Nonstandard Copies – Copies of information made available to a requestor in any format other than a standard copy. This includes, but is not limited to, microfiche, microfilm, diskettes, magnetic tapes, videocassettes, and paper copies larger than 8 ½ by 14 inches.
- 6.5 Liaison – The person(s) in each department designated by the department head as responsible for responding to, processing and filling requests for public information.
- 6.6 Superpublic – Information, as defined under §552.022 of the Code, where there is no basis for withholding or necessity for review prior to release, as permitted or required under the provisions of Act. Superpublic information shall include: certificate of occupancy, building permits, ordinances, resolutions, adopted minutes of a meeting, posted agenda, and “basic front page” information, as set forth in *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177, 184–85 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref’d n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976).

- 6.7 Standard Requests – All requests for information, as defined under §552.022 of the Code, which do not consist of Superpublic information. Standard requests include requests for information which contain information or data that is otherwise excepted from required public disclosure under a permissive or mandatory exception provided in the Act.
- 6.8 Department – The department(s) to whom a public information request is forwarded or the department(s) that has information responsive to a request for public information. The term department shall refer to the Head of the Department, the liaison(s) as defined in this policy, and any other employee so designated or responsible for responding to public information requests.

7.0 POLICY

The City of Carrollton will promptly fulfill all Public Information Act requests in compliance with the law, unless the release of such information is against the law or City policy.

8.0 GENERAL

The City of Carrollton regularly receives requests for access to public information. Some requests must be reviewed to ensure that public access to the information being requested is not limited or restricted by law. Other requests, for information deemed to be Superpublic information under this policy, must be released promptly. Occasionally, the City receives requests for public information that, due to the nature, comprehensiveness, and formality of the request, require special handling. This regulation establishes practices and procedures for processing requests for information that may be considered routine and also provides guidance for handling requests whose content may require review by the Legal department.

In handling requests for public information, the City of Carrollton must comply with the requirements of the Act. Any written request for public information in the state of Texas, routine or otherwise, must be handled in accordance with the Act and other state and federal statutes. Charges associated with the copying of information fall under the provisions of the Act, specifically those sections of the Code that set maximum charges for the copying of information, and the TAC. These charges must be used in assessing fees for compiling and copying public information, except to the extent that other law provides for charges for specific kinds of public information. Charges for public information are designed to match the actual cost of providing the information and are based primarily on the volume and availability of the requested information.

The fee schedule provided in the TAC must be followed whenever applicable by the

City Secretary's Office in assessing copying fees for public information.

The Act does not require the creation of new information. Departments should only provide information that responds to the request and that exists at the time the request is received. If a department does not have information that responds to a request, the department shall notify the City Secretary's Office, which shall notify the requestor, in writing.

The Act prohibits the City from asking why a requestor wants certain information or how the information will be used. The purpose of the request or the type of information requested is not a factor in determining charges. Staff may make inquiries to a requestor only for the following reasons:

- 1) To establish proper identification, if needed;
- 2) To clarify a request that is unclear;
- 3) In cases where a large amount of information has been requested, to discuss how the scope of a request may be narrowed.

9.0 RESPONSIBILITY/AUTHORITY

9.1 City Secretary's Office

9.1.1 As the officer for public information, the City Secretary retains ultimate responsibility for the accessibility, preservation, protection, and maintenance of public information.

9.1.2 The City Secretary, or his or her designee, shall serve as the point of contact for public information requests.

9.2 Departments

9.2.1 The Act designates the City Secretary as the City of Carrollton's "Officer for Public Information" and makes him or her legally responsible for compliance with its provisions. The Act further designates each department head as an agent of the officer for public information for the purpose of complying with the Act's provisions. Each department head is responsible for his or her departmental public information and for ensuring that requests for public information are handled in accordance with the law and this policy.

9.2.2 The City Secretary's Office is the point of contact and the distribution point for public information requests. Departments may refer a request for public information to the City Secretary's Office or may receive the

request and promptly send it to the City Secretary's Office, whichever is more expedient for the requestor, except as provided in Section 10.1.1.

- 9.2.3 Department heads are responsible for responding within one (1) business day to any inquiries from the City Secretary's Office or Legal department regarding requests for departmental public information.
- 9.2.4 Department heads shall appoint one or more departmental liaison(s) that will be responsible for responding to, processing and filling requests for public information, and working with the City Secretary's Office or Legal department in handling public information requests. The department head shall also ensure that if the departmental liaison(s) is unavailable, at least one staff member with knowledge of the public information process and all requests that are submitted to the department, is available to process the request and/or work with the City Secretary's Office and Legal department in handling public information requests.
- 9.2.5 Departments are responsible for organizing and maintaining both active and inactive information in a manner that maximizes the ready availability of the information in accordance with state laws, especially information that is likely to be the subject of repeated requests for access or copies.
- 9.2.6 Departments are responsible for handling Superpublic requests for public information according to the terms of this regulation. A City promulgated form for Superpublic requests shall be used by all departments.
- 9.2.7 Departments are responsible for providing all responsive documentation to the City Secretary's Office within four (4) days of the request date. Extensions of this time period may be made by the Legal department, upon request and demonstration of necessity.
- 9.2.8 Departments are responsible for estimating, justifying, and reporting all charges associated with compiling and copying information.
- 9.2.9 Departments shall examine all information to determine which information is responsive to the request and forwarding such information to the City Secretary's Office.

9.3 City Secretary's Office

- 9.3.1 The City Secretary's Office logs in and carries out the initial distribution of all public information requests to relevant department heads and/or appointed liaisons and also forwards a copy to the Legal department.
- 9.3.2 The City Secretary's Office is responsible for contacting the requestor to confirm receipt and to indicate the initial status of distribution efforts, including the identification of departments of record.
- 9.3.3 The City Secretary's Office will provide advice to departments on costs associated with providing copies of, or access to, public information.
- 9.3.4 The City Secretary's Office will provide copies or access to public information in response to standard requests. Requests for Superpublic information will be provided immediately to the requestor by the department.
- 9.3.5 The City Secretary's Office is responsible for advising and informing the City Manager's Office on noteworthy or sensitive requests, or providing reports from the public information request log as requested.
- 9.3.6 The City Secretary's Office shall coordinate the response to all requests, with the assistance of the Legal department. If the request yields responsive information that is sensitive or may be confidential, the City Secretary's Office shall send a copy of the information to the Legal department before providing access or copies to the requestor. If this occurs, the City Secretary's Office shall not provide access or copies to the requestor until the Legal department has reviewed the information and determined if the information can be released.

9.4 Legal Department

- 9.4.1 The City Attorney is responsible for ensuring compliance with this policy, the Act and the direction of City Council. The City Attorney will provide monthly updates to City Council regarding Attorney General ruling requests.
- 9.4.2 The Legal department reviews all written requests for public information forwarded by the City Secretary's Office and other departments to determine whether any portion of the requested information may fall under an exception according to the Act, except as provided in Section 10.1.1.
- 9.4.3 In order to determine whether information is confidential or excepted from disclosure under the law, the City Secretary's Office shall provide

the Legal department with a copy of the requested information before the information is released to the requestor, except as provided in Section 10.1.1.

- 9.4.4 The Legal department may send a request for ruling to the Texas Attorney General, or otherwise correspond with the Attorney General's office according to the provisions and time allowances articulated in the Act. A request for ruling may be requested when information is confidential pursuant to state or federal law, including but not limited to the provision of the Act.
- 9.4.5 If a request for public information will result in a charge of more than \$40.00, the Legal department shall provide the requestor a written itemized statement that details all the estimated charges. If there is a less costly alternative to view the information, the notice shall inform the requestor to contact the City Secretary's Office about the alternate method. If the requestor does not respond in writing to the itemized statement within 10 days after the statement is sent, the request is considered automatically withdrawn. If the actual charges exceed the written itemized statement by twenty percent (20%) or more, the department shall send the requestor an updated itemized statement. All itemized statements must inform the requestor of his or her duties to respond within the time required by law and the consequences for not timely responding. The itemized statement must also inform the requestor of his or her right to file a complaint for overcharging with the Office of the Attorney General in accordance with Section 552.269 of the Public Information Act.
- 9.4.6 The Legal Department provides guidance, as needed, to the City Manager's Office, the City Secretary's Office, and other City departments on all requests for public information.

10.0 PRACTICE

10.1 General

- 10.1.1 Requests for Superpublic information, as defined herein, shall be filled promptly. Promptly shall be defined as defined by the Texas Attorney General, recognizing staffing considerations at the time of the request. Superpublic requests may be made on a City provided form, setting forth the type of information requested and that further information is not sought.

- 10.1.2 For standard requests, staff shall ask any requestor to put a public information request in writing addressed to the City Secretary's Office or to fill out the appropriate sections of a Public Information Request form, online or in person, provided by the City. A request may be submitted online, by mail, facsimile, electronic mail, or delivered in person. All standard requests should be forwarded immediately to the City Secretary's Office for review and distribution.
- 10.1.3 The City Secretary's Office shall distribute the request to the appropriate departments, which shall confirm receipt of the request within one (1) business day. A copy of the information responsive to the request shall be provided to the City Secretary's Office within four (4) days of receipt of the request by the City.
- 10.1.4 All public information maintained by the City at the time of a standard request must be provided to the City Secretary's Office. After review by the City Secretary's Office and the Legal department, if applicable, all information, that is not otherwise excepted from required public disclosure, shall be released. The difficulty or inconvenience involved in making this information available is not a factor in determining whether or not information shall be released. The availability and volume of information requested, however, are highly relevant to what constitutes a reasonable period of time. For more voluminous requests, the task of compilation may be greater. If the request is unclear, staff may ask the City Secretary's Office to seek clarification from the requestor regarding the information is being sought. If a large amount of information has been requested, staff may discuss with the requestor how the scope of the request might be narrowed, but staff may not inquire into the purpose for which information will be used.
- 10.1.5 Requests for public information shall be handled promptly and in the order in which they are received. When the time necessary for compilation or provision of requested information will exceed ten (10) business days from the date of the standard request, the City Secretary's Office shall certify in writing to the requestor the date and approximate hour, within a reasonable time, when the information will be available, copying the Legal department.
- 10.1.6 Electronic Data
- (a) If public information exists in an electronic or magnetic medium, the requestor may request a copy either on paper or in an electronic

medium, such as on diskette or magnetic tape. City staff shall provide a suitable copy in the requested medium if:

- (1) the City has the technological ability to produce a copy of the requested information in the requested medium;
 - (2) the City is not required to purchase any software or hardware to accommodate the request; and
 - (3) provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the City and a third party.
- (b) If staff is unable to comply with a request to produce a copy of information in a requested medium for any of the reasons described above, staff shall provide a paper copy of the requested information or a copy in another medium that is acceptable to the requestor. Staff is not required to copy information to a diskette or other material provided by the requestor, but may use City supplies and charge the requestor.

10.1.7 Manipulation of Data

- (a) If staff determines that responding to a request for public information will require programming or manipulation of data and that compliance with the request is not feasible or will result in substantial interference with ongoing operations, the City Secretary's Office shall provide to the requestor a written statement that must include:
- (1) a statement that the information is not available in the requested form;
 - (2) a description of the form in which the information is available;
 - (3) a description of any contract or services that would be required to provide the information in the requested form;
 - (4) a statement of the estimated cost of providing the information in the requested form, in accordance with charges outlined in the Act; and

- (5) a statement of the anticipated time required to provide the information in the requested form.
 - (b) The City Secretary's Office shall provide the written statement to the requestor within 20 days after the date of receipt of the request. Staff has an additional 10 days to provide the statement if staff gives written notice to the requestor that additional time is needed.
 - (c) After providing the written statement to the requestor, staff has no further obligation to provide the information in the requested form or in the form in which it is available unless, within 30 days, the requestor states in writing to the staff that the requestor:
 - (1) wants staff 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 requestor and staff agree; or
 - (2) wants the information in the form in which it is available.
 - (3) if the requestor does not make a timely written statement as provided in this section, the request is considered to be withdrawn.
 - (d) The City Secretary's Office shall maintain a file containing all written statements issued under this section in a readily accessible location for one year after a final decision on the request has been made.
- 10.1.8 Staff shall consult with the Information Technology Department prior to providing the written statement described in Section 10.1.7, as well as a "suitable copy" described in Section 10.1.6, if Information Technology has service responsibility for the electronic records keeping systems from which the information is being requested.
- 10.1.9 For both convenience and security, all information requested shall be located by departmental staff, inspected by the requestor, and copied by departmental staff.
- 10.1.10 City staff shall not remove or allow to be removed from City offices any original copies of public information. Inspections of public information shall take place on-site in City facilities. Departments

shall provide facilities and accommodations to accomplish such inspections.

- 10.1.11 Persons requesting access to public information must complete examination of the information within 10 business days from the date material is made available to them. This period may be extended an additional 10 business days provided the requestor, during the initial period, files a written request for additional time. If the requestor does not complete the examination within 10 business days after the information is made available, and does not file a request for additional time, the request is considered withdrawn. An additional 10 business days may be granted if, within the additional period, the requestor files another written request for additional time. This examination period may be interrupted if the information is needed for use by the City. This period of interruption is not included in the time period during which persons may examine information.
- 10.1.12 Departments shall keep records of labor involved in compiling all requests for information so that proper charges can be assessed in accordance with Section 10.4 below.
- 10.1.13 Copies of materials requested in public information requests may be mailed to the requestor by first class United States mail, provided that the requestor has paid all costs associated with copying, as well as postage costs, in advance.
- 10.1.14 Destruction of public information shall take place on a regular and systematic basis according to approved records retention and disposition schedules, City Code provisions and state law. No information shall be destroyed, however, including information whose retention minimum has expired, after a request for that information or notification of such a pending request has been received.
- 10.1.15 Any questions regarding the nature or handling of a particular public information request shall be referred to the City Secretary's Office.
- 10.1.16 Repetitious Requests
 - (a) If staff determines that a requestor has made a request for information that has previously been copied or made available to the same requestor upon payment of applicable charges, the City Secretary's Office shall certify to the requestor that copies of all or

part of the requested information was previously furnished or made available to the requestor. The certification must include:

- (1) a description of the information for which copies have been previously furnished or made available to the requestor;
 - (2) the date the governmental body received the requestor's original request for that information;
 - (3) the date the governmental body previously furnished copies or made the information available to the requestor;
 - (4) a certification that no subsequent additions, deletions, or corrections have been made to that information; and
 - (5) the name, title, and signature of the officer for public information or the officer's agent making the certification.
- (b) a charge may not be imposed for making a certification under this section.
- (c) this section does not apply to information that was not previously copied or made available to the requestor upon payment, including information for which copies were not furnished or made available because the information was redacted from other information that was furnished or made available or because the information did not yet exist at the time of an earlier request.

10.2 Forms

10.2.1 The Public Information Request forms (standard and Superpublic) are designed to facilitate and document the process of receiving and responding to public information requests. It is not required, however, either to initiate or complete the response process. When possible, it should be used as a worksheet to clarify what is being requested, to document who is handling the request, to report the disposition of the request, and to calculate and report costs associated with providing the requested information.

10.2.2 The Request Notice is designed to notify departments that information within their custody is being requested. It also reveals the requestor's name, receipt date, general subject of the request, and other departments that may have responsive information. The City Secretary's Office attaches a copy of the information request and a

copy of the initial response to the requestor to the form and distributes the packet to relevant departments and the Legal department.

10.3 Public Information Request Procedures

- 10.3.1 All requests for Superpublic information, regardless of the form used, shall be handled promptly, in accordance with this policy, by the applicable department.
- 10.3.2 All standard requests for public information, shall be logged in by the City Secretary's Office and forwarded to the appropriate department(s), which shall provide documents to the City Secretary's Office in accordance with this policy.
- 10.3.3 The City Secretary's Office shall refer information that may be sensitive or confidential to the Legal department to determine whether all or any portion of the information requested is exempted from public disclosure.
- 10.3.4 For any written request for public information that the Legal department considers within the exceptions stated in the Public Information Act but for which there has been no previous determination of exception, the Legal department must request a decision on the matter from the Attorney General within ten (10) business days of the City's receipt of the written request. If such a decision is not requested, the requested information shall be presumed to be subject to mandatory disclosure. Departmental staff must refer all standard public information requests immediately to the City Secretary's Office to enable the City to comply with the 10-day deadline for seeking a decision from the Attorney General, if it is necessary. If the department anticipates that it will take more than 4 business days from the date of receipt of the request to forward the responsive documents to the City Secretary's Office, the liaison shall immediately contact the Legal department and the City Secretary's Office and specify, in writing, the day and time when the documents will be provided.
- 10.3.5 The Legal department shall notify the requestor, relevant departments, and the City Secretary's Office upon determination that the requested information is subject to exception from disclosure or release. The Legal department shall oversee the redaction of information determined to be confidential or otherwise excepted from public disclosure.

10.3.6 When mailing copies of sensitive information, certified mail may be used.

10.4 Charges for Public Information

10.4.1 Charges for public information are governed by the TAC.

10.4.2 The Legal department should provide a requestor with a written estimate of costs anticipated for information that will require manipulation, programming, personnel time, or other cost categories over and above simple paper copies.

10.4.3 As a general rule, there is no charge for inspection of public information if a copy is not requested. The following are exceptions to this rule, for which fees may be charged:

- (a) In the case of paper records on which a page or pages contain confidential information that must be edited or redacted before the information can be made available, departments may charge only for the cost of a copy of the page from which information must be redacted.
- (b) In the case of information in an electronic medium that is not available directly online to a requestor and that will require programming or manipulation of data to comply with a request, departments may impose charges for access to the information. The City Secretary's Office shall provide an estimate of related charges to the requestor before assembling the information.
- (c) In the case of information in an electronic form on a computer owned or leased by the City to which the public has direct access through a computer network or other means and that will require processing, programming, or manipulation on the City-owned or leased computer before it can be electronically copied, departments may impose associated charges.

10.4.4 If the cost associated with processing the collection of a charge for a copy of public information will exceed the amount of the charge, the City may waive the charge. In order to avoid cumulative losses, however, it is the policy of the City to collect for all information copied or provided to requestors.

10.4.5 When mailing copies of material requested, fees charged shall be collected before materials are sent. The City Secretary's Office may

notify requestors of exact charges by telephone, correspondence, or by calculating charges on the Public Information Request form and forwarding it as an invoice. All facsimile and mailing costs, including certified mail charges, shall be included as part of total copying charges assessed.

10.4.6 When charges for copying are projected with certainty to exceed \$100, a deposit shall be charged, and a receipt for this amount shall be given when the deposit is received.

10.4.7 Sales tax may not be added to the charges for copying public information.

10.4.8 Mailing charges may be assessed.

10.5 Training

10.5.1 The City Secretary's Office, in conjunction with the Legal department, shall provide training and guidance to all liaisons on the legal requirements, costs, and procedures associated with responding to requests for public information.

10.5.2 All staff members designated as a departmental liaison for public information, or a backup to the liaison in his or her absence, shall be required to attend the training at least once within a two-year period. If a new staff member is designated as a liaison, or the backup to the liaison, that person shall attend the next available training session.

10.5.3 The City Secretary's Office is the official designee of the City to satisfy the training requirements of Section 552.012 of the Code.

10.6 Penalties

Release of confidential information or failure to comply with the provisions of the Public Information Act is a misdemeanor punishable by a fine up to \$1,000, confinement in jail up to 6 months, or both. In addition, an offense is committed if public information is willfully destroyed, mutilated, removed without permission, or altered, and is punishable by a fine from \$25 to \$4,000, confinement in jail from 3 days to 3 months, or both the fine and confinement.

11.0 PROCEDURES

The following is intended to be a quick reference guide for responding to standard public information requests and an outline of the primary responsibilities for each

party:

Departments

- 11.1 Send all public information requests to the City Secretary's Office immediately, retaining one copy for record purposes.
- 11.2 Immediately examine the responsive information and forward all copies of sensitive or confidential information to the Legal department for review.
- 11.3 If the department anticipates it will take more than 4 business days to forward the information to the Legal department, immediately contact the Legal department and specify the day and time when the information will be available for review.

City Secretary's Office

- 11.4 Log and number all requests.
- 11.5 Distribute request by facsimile or delivery both to the Legal department and all departments related to the request.
- 11.6 Issue a response to the requestor confirming request receipt and indicating the distribution status.
- 11.7 Notify City Manager's Office and department heads on noteworthy or sensitive requests.
- 11.8 Assist with collection and distribution of requested information, as needed.
- 11.9 Deliver materials on receipt of payment.
- 11.10 Keep official record of communications and materials prepared for each request for one year after final decision on request.

Legal Department

- 11.11 Review requests to determine whether any portion may yield protected information. Examine responsive information submitted by the departments as needed and consult with them regarding exceptions to disclosure of information.
- 11.12 If necessary, request a ruling from the Attorney General:

- 11.12.1 Submit a request to withhold the information from disclosure to the Attorney General within 10 business days of City's receipt of request.
 - 11.12.2 Notify requestor of submission to Attorney General.
 - 11.12.3 Submit written comments to the Attorney General, with a copy to the requestor, stating the reasons why the stated exceptions apply not later than the 15th business day after the date of receiving the written request.
 - 11.12.4 Approve and/or release any portion of the request that is public information.
 - 11.12.5 Inform requestor of Attorney General ruling when received, unless the requestor has already been notified by the Attorney General.
- 11.13 Request a ruling from the Attorney General based upon the parameters set forth in the Act that are mandatory or discretionary exceptions, including those exceptions that provide for the protection of citizens and the integrity of the City and its processes.
- 11.14 In the event of a request for voluminous amount of information, provide an estimate of charges according to the TAC.

Departments

- 11.15 Provide the City Secretary's Office with the material requested within four (4) business days.
- 11.16 For large copying requests, provide the City Secretary's Office with an estimate of anticipated charges prior to making copies.
- 11.17 Arrange for copying of materials as requested and estimate charges according to fee schedule adopted in the TAC.