



CITY OF SHAVANO PARK
900 Saddletree Court
Shavano Park, TX 78231

CITY POLICY NO. 15

September 23, 2019

SUBJECT: Standard Operating Procedures for Public Information Requests

1. References.

- a. Senate Bill 944 of the 86th Texas Legislature
- b. Government Code, Chapter 552, The Public Information Act

2. Purpose. The purpose of this policy is to set out guidelines to ensure that all requests for public information are handled uniformly, fairly, timely, and within the statutes set out by the State of Texas Public Information Act. In the event of any conflict between the City's Policy and the Texas Public Information Act, the Act and other applicable state laws shall prevail.

3. Staff Point-of-Contact. The point of contact for this policy is the City Secretary at 210.581.1116 or ztedford@shavanopark.org.

4. Background. 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.

The City Secretary serves as the City's officer for public information and is responsible for the effective disposition of Public Information Requests submitted to the City of Shavano Park. An effective and efficient means of receiving, cataloging, retrieving, and dispensing of records is essential to comply with the laws of the State of Texas.

5. Policy.

a) TYPES OF INFORMATION SUBJECT TO THE PUBLIC INFORMATION ACT

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 or city information. The Public Information Act applies to records regardless of their format. The Public Information Act also applies to all records kept by both former and current City officials and employees that contains City information. 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.

All 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, which follows the State's records

retention schedule, and promptly produced in response to a request for public information. This applies to City information kept on personal devices or within personal accounts, for which the City officials and employees are deemed “Temporary Custodians” and shall provide an archive of such to be maintained by the City for the records retention schedule.

b) PROCEDURES

1. Request for Information

Requests submitted under the Public Information Act are handled by the City Secretary.

Requests can be submitted on the website via the form at:

http://www.shavanopark.org/how_do_i/request_public_information.php , or by mail, fax, e-mail, or in person, and must be in writing. All requests should include enough description and detail about the information requested to enable the City to accurately identify and locate the information requested.

Please send requests by mail to:

Zina Tedford, City Secretary

City of Shavano Park

900 Saddletree Court

Shavano Park, Texas 78231

E-mail: ztedford@shavanopark.org

Fax: 210-492-3816

2. Intake

- a. All written requests for public information shall be immediately, but no later than two (2) days, forwarded to the City Secretary. A written request will be accepted if made in person, via regular mail, fax, or email.
- b. Requests submitted on an official city holiday or after 5PM on a regular business day will be considered received on the next business day.
- c. The City Secretary will date stamp, assign a PIR (Public Information Request) number and analyze the request to determine if it requires clarification.
- d. If the request is unclear or particularly voluminous the City Secretary will seek clarification from the requestor within ten (10) days from the date the request was received. If a request is clarified the ten (10) days to respond to the request is suspended and restarts upon receipt of the clarification from the requestor.
- e. The City Secretary will contact the proper department for processing and collecting of responsive information.
- f. The City Secretary will be responsible for maintaining the Public Information Request Log (“PIR Log”) which shall include the following information: date request received, date of any correspondence with the requestor, estimated cost of producing information, amounts paid, and amounts owed.
- g. Once the information is processed by the department and forwarded back to the City Secretary, 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.

3. No Confidential Information Requested

- a. If there are no concerns regarding the confidentiality of the requested information the City Secretary shall promptly send responsive documents to the requestor as soon as possible, but no later than ten (10) days from the date of the request.
- b. If the information requested cannot be promptly produced because of the number of documents sought or availability of records, the City Secretary shall notify the requestor, in writing, of an estimated date on which it will be provided.
- c. City Secretary will notify the requestor, in writing, of any expenses related to the request, and will notify the requestor prior to completion of production if the cost estimate is greater than \$40 (Forty Dollars).

4. Information Requested May Contain Confidential or Excepted Information

- a. If the City Secretary has a question or concern regarding the confidentiality of responsive information the City Secretary will immediately forward said request and responsive documents to the City Attorney's Office for legal review.
- b. If the City Secretary identifies information is confidential or excepted from public disclosure the Secretary must ask for a ruling from the attorney general about whether the information is excepted from disclosure if there has not been a previous determination about whether the information falls within an exception.

5. Attorney General Ruling

- a. No later than the 10th calendar day after receiving the Attorney General's ruling the City Secretary shall comply with the ruling and produce responsive documents or instruct the City Attorney's office to file suit to appeal the ruling.

6. Automatic Redactions

- a. The Attorney General's 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 requestor without first seeking the Attorney General's permission.
 - i. a direct deposit authorization form;
 - ii. a Form I-9 and attachments;
 - iii. W-2 and W-4 forms under section 552.101 in conjunction with section 6103(a) of title 26 of the United States Code;
 - 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;
 - x. 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;
 - xi. a social security number of a living person;
 - xii. the home address, home telephone number, 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; **
 - xiii. 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 to the requestor on a form prescribed by the attorney general:
- i. a description of the redacted or withheld information;
 - ii. a citation to the section of the Government Code allowing the redaction; and
 - iii. instructions regarding how the requestor may seek a decision from the Attorney General regarding whether the redacted or withheld information is excepted from required disclosure.
- c. Special note: Dates of birth are not on the automatic redactions list, but all dates of birth have been judicially determined to be confidential by law. A requestor must approve automatic redaction or the City must get permission from the attorney general to redact

7. Questions

- a. As stated above, 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 Shavano Park. Accordingly, when written requests are submitted seeking answers to specific questions, but do not specify what, if any, documentation is being sought, the City Secretary will proceed as follows:
- i. First, the Secretary will attempt to identify any documents in existence that might provide the requestor with the answers they are seeking;
 - ii. If unable to identify any documentation, the City Secretary shall seek clarification from the requestor regarding what, if any, documentation they are seeking; and
 - iii. Notify the requestor that the Act does not require the City to answer questions, but that their request is being process as a “citizen inquiry” and, has been forwarded to the department head mostly likely to be able to answer the questions submitted in the request.
- b. Citizen requests seeking the answers to questions that are not submitted in writing do not need to be considered requests submitted under the Act and processed in accordance with the procedures stated in this policy.

- c. 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.

8. Police Department

- a. Access to Texas Peace Officer's Crash (CR-3) Reports. Peace Officer Crash (CR-3) Reports are held and maintained by the Texas Department of Transportation. The City does not maintain a copy of this report in its records.
 - i. If the City receives a request for a CR-3 Report the City Secretary shall notify the requestor that the City does not have any documents responsive to this request as this information is not held or maintained by the City.
 - ii. The City Secretary may also note to the requestor that the accident report requested can be purchased online via the Crash Records Information System ("C.R.I.S") operated by the Texas Department of Transportation and provide a link to the C.R.I.S. website.
[\(https://cris.dot.state.tx.us/public/Purchase/\)](https://cris.dot.state.tx.us/public/Purchase/)
- b. Access to Law Enforcement Records Related to Pending Investigation or Prosecution.
 - i. Information, including, internal records and notations, held by the Shavano Park Police Department are excepted from public disclosure if releasing the information would interfere with the detection, investigation, or prosecution of crime.
 - ii. The Department believes, and the Texas Attorney General generally agrees, that releasing information related to a pending investigation or prosecution will interfere with the detection, investigation or prosecution of crime.
 - iii. Accordingly, if the City receives a request for information related to a pending investigation or prosecution of an offense designated as a Class B or higher it is the City's policy to seek permission from the Attorney General to withhold this information as allowed by Texas Government Code section 552.108.
 - 1. Prior to seeking an Attorney General ruling the City Secretary may seek clarification from the requestor, in accordance with the Act and these policies, and ask the requestor if he or she wishes to narrow the scope of the request to only the "basic information" as defined by Government Code section 552.108(c).
- c. Access to Audio Files and Dash Camera Videos.
 - i. All audio files and dash camera video files are stored in an electronic format on the City's servers, therefore, making this information available to the public may require the manipulation of data and if so, should be processed in accordance with the manipulation of data policy.
 - ii. Prior to public release, all audio files and dash camera video files should be reviewed for confidential information such as driver's license numbers, license plate numbers and other information deemed confidential by law.
 - 1. If it is determined that an audio or video file includes information confidential by law the City Secretary shall seek permission from

the Attorney General in accordance with the Act and this policy to withhold the file in its entirety as the City does not have the technological capabilities to redact this information from the audio or video files and is prohibited by law from releasing this information.

d. Body Camera Video

- i. Any request for a Body Camera Video shall be handled in accordance with the Shavano Park Police Department Vehicle and Body Cameras Policy.

9. Municipal Court

- a. Courts and Judicial Branch agencies are not subject to the Texas Public Information 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 Shavano Park Municipal Court be processed in accordance with these guidelines.

- i. Access to Court Case Records.

1. 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.
 2. Court case records are considered information held by the judiciary. Therefore, the Public Information Act neither authorizes this information to be withheld nor requires it to be disclosed.
 3. Access to court case records is governed by common law, other statutory law and court rules.
 4. The custodian of court case records is the Clerk of the Court.
 5. Requests from the Public.
 - a. Requests from the public for court case records shall be immediately directed to the Court Clerk and processed in accordance with state law.
 - b. 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.

- ii. Access to Judicial Records.

1. 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.
 2. Judicial records are considered information held by the judiciary. Therefore, the Public Information Act neither authorizes this information to be withheld nor requires it to be disclosed.
 3. Requests for Judicial Records.
 - a. Any request to inspect or copy a judicial record received by the City and properly directed to the Municipal Court Judge shall 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.

c) CHARGES TO REQUESTOR

1. Administrative Code Charges Apply

- a. A requestor may ask to inspect information, get copies of the information, or both. If a request is for copies of information or to inspect information that requires redactions of confidential information then the charges approved by the Texas Public Information Act and found in Rule §70.3 of the Texas Administrative Code will apply.
- b. The City Secretary will be responsible for applying the charges per this policy, invoicing and collecting payment from requestors. The City Secretary will fully document the amounts, paid and unpaid, for every request in the PIR Log.

2. Providing Paper and other Physical Copies of Information

- a. Common fees that apply to hard copies of requested records are found in Appendix A – City of Shavano Park Fee Schedule of the City of Shavano Park Code of Ordinances.
- b. 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. However, it is the City’s policy to issue standard or legal size certified copies of city records upon request for a fee specified in Appendix A – City of Shavano Park Fee Schedule of the City of Shavano Park Code of Ordinances.

3. Providing Electronic Copies of Information

- a. If a Requestor asks that information be provided in an electronic format (i.e., e-mail attachment, copied on to a CD or DVD) the City shall provide the information in the requested format if:
 - i. the requested information is electronically stored;
 - ii. the City has the capability of providing it in that format; and
 - iii. the City it is able to provide it at no greater expense or time.
- b. The City has the capability to provide a Requestor with electronic copies of information via e-mail if the following conditions are met:
 - i. the Requestor provides a valid e-mail address;
 - ii. the information being requested already exists in an electronic nonmanipulative format, such as a .PDF file;
 - iii. no redactions of confidential information is needed;
 - iv. the electronic file is less than 10MB;
 - v. e-mailing the electronic file will not take longer than half an hour of personnel time; and
 - vi. payment, if applicable, for the documents has been received.

- c. The City has the capability to provide a Requestor with electronic copies of information via a disc if the following conditions are met:
 - i. the information being requested already exists in an electronic nonmanipulative format, such as a .PDF file;
 - ii. no redactions of confidential information is needed;
 - iii. copying the electronic file will not take longer than half an hour of personnel time; and
 - iv. payment, if applicable, for the documents has been received.
- d. Per page charges will not apply to copies provided electronically, but fees will be charged per Appendix A – City of Shavano Park Fee Schedule of the City of Shavano Park Code of Ordinances.

4. Inspection of Information

- a. If the requestor 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:
 - i. the information being requested completely fills, or when assembled will completely fill, six or more archival boxes and would take 5 or more personnel hours to make available; or
 - ii. the information being requested is over 5 years old and would take 5 or more personnel hours to make available; or
 - iii. a page being requested contains confidential information that must be edited from the record before the information can be made available for inspection.
 - 1. If the information completely fills, or when assembled will completely fill, six or more archival boxes or is over 5 years old as described above, the City will charge the requestor the labor charges associated with making the documents available.
 - 2. If a redaction from a page is required, the City will charge fees per the Appendix A – City of Shavano Park Fee Schedule of the City of Shavano Park Code of Ordinances.
- b. In response to a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the City will not charge to inspect this information unless complying with the request will require programming or manipulation of data.
 - i. If programming or manipulation of data is required, the City Secretary shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed to make the information available.
 - ii. 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.

5. Waiver of Costs

- a. The City shall waive the costs associated with producing the information if the total is less than \$1.00 because the actual cost of processing and collecting a charge less than \$1.00 will exceed the amount of the charge.
- b. The City shall 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.
- c. The City may provide a copy of a BWC recording without charge or at a reduced charge if it is determined by the Chief of Police that waiver or reduction of the charge is in the public interest.

6. Deposits and Overdue Balances

- a. A deposit of 50 percent of the entire estimated amount shall be imposed when the anticipated costs for the preparation of a copy of public information in the written itemized statement of charges provided by the City Secretary exceeds \$100.
- b. If a requestor has accrued over \$100 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.
- c. 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.
- d. If a requestor 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.
- e. A requestor 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.

7. Programming and Manipulation of Data

- a. Definitions
 - i. "Manipulation" means the process of modifying, reordering, or decoding of information with human intervention.
 - ii. "Programming" means the process of producing a sequence of coded instructions that can be executed by a computer.
- b. The City shall provide to a requestor written "programming or manipulation of data" statement described below if it is determined that:
 - i. responding to a request will require programming or manipulation of data; and
 - 1. compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or
 - 2. the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

c. Types of Information Requiring Programming or Manipulation of Data

i. The following are examples of the types of information that may be requested from the City that may require programming or manipulation of data in order to make them available to the public, this list is not intended to be exhaustive.

1. E-mails. The City's e-mail correspondence is stored as "Outlook Message Format – Unicode (*.msg)" files. To make an e-mail communication available to the public in an electronic, nonmanipulative format the City must modify this information from the .msg format to a .pdf format. The City considers this a manipulation of data and the following procedures shall be followed.

2. Audio and Video Files. The City's audio and video files are stored in a variety of different electronic formats on the City's servers. To make a video file available to the public the City may have to modify the information to another electronic format that is capable of being saved to a CD or DVD and accessible electronically by the public. The City considers this a manipulation of data and the following procedures shall be followed.

3. Text Messages. If asked to obtain text messages containing public information the City may have to modify the information to another electronic format that is capable of being saved to a .pdf format. The City considers this a manipulation of data and the following procedures shall be followed.

- a. The written "programming or manipulation of data" statement must include:
 - i. a statement that the information is not available in the requested form;
 - ii. a description of the form in which the information is available;
 - iii. a description of any contract or services that would be required to provide the information in the requested form;
 - iv. a statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general under Section 552.262; and
 - v. a statement of the anticipated time required to provide the information in the requested form.
- b. The City Secretary shall provide the written "programming or manipulation of data" statement to the requestor within 20 days after the date of the receipt of the request.
 - i. If the City Secretary needs additional time to provide the written statement s/he must provide written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed.
 1. If written notice above is provided the City Secretary has an additional 10 days to provide the written "programming or manipulation of data" statement.
- c. After providing the requestor 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 30 days the requestor states in writing to the City that the requestor:

- 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 requestor and the City agree; or
 - ii. wants the information in the form in which it is available.
 - iii. If a requestor does not make a timely written statement under Subsection (d), the requestor is considered to have withdrawn the request for information.
- d. 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.