



City of Kaufman

PUBLIC INFORMATION ACT

PUBLIC INFORMATION ACT CITY OF KAUFMAN, TEXAS

“The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

--Preamble, Public Information Act

I. POLICY:

The Texas Public Information Act (the Act) gives the public the right to request access to government information. It shall be the policy of the City of Kaufman (City) to comply with the provisions of the Act. The City shall also strive to provide excellent customer service in dealing with requests for public information.

All information that is collected, assembled or maintained by or for the City that is deemed public information under the Act shall be made available to the public during normal business hours according to this Policy.

The Act applies only to information that already exists.

This Policy will govern requests by members of the public for access to or copies of City information except for those records covered by other statute or special policies or deemed confidential by PIA, such as Municipal Court records, Police records, etc.

II. DEFINITIONS:

“Normal Business Hours” means between 8:00 a.m. and 5:00 p.m. Monday through Friday, except for City-observed holidays.

“Requestor” means a person making a request for public information.

“Officer for Public Information” means the chief administrative officer of the City (City Manager).

“Department Contact” means the director of a City department or a person designated by the director to implement this policy within the department.

“Public Information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by the City or for the City, and the City owns the information or has the right of access to it. The term “Public Information” applies to recorded information in practically any medium, including 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 representation held in computer memory. (Sec. 552.002 Tex. Gov’t Code Ann.)

III. PUBLIC INFORMATION POSTER:

Each City department shall display a sign in the form prescribed by the Texas Building and Procurement Commission containing basic information about the rights of requestors and responsibilities of the City, as well as the procedures for inspecting or obtaining a copy of public information under Texas Government Code, Chapter 552. The sign, in English and Spanish, shall be displayed in a location easily accessible to the public and to the employees responsible for responding to open records requests (see Exhibit C).

IV. EXCEPTIONS TO DISCLOSURE (CONFIDENTIAL INFORMATION):

1. The Act provides certain exceptions to disclosure of information that is considered confidential by law, either constitutional, statutory, or by judicial decision. When the City receives a written request for information the City wishes to withhold under one of the exceptions, the City shall follow the procedures set out in the Act. This generally means that the City must seek an attorney general decision within ten (10) business days after receipt of the request and state which exceptions apply, notify the requestor of the referral to the Attorney General, and notify third parties if the request involves their proprietary information.

Some common examples of confidential information are:

- a. Names, addresses and phone numbers of peace officers
 - b. Certain police records
 - c. Certain personnel information
 - d. Certain documents related to litigation
 - e. Trade secrets/proprietary information that would give advantage to competitors or bidders.
2. City employees should refer to the *Public Information Act Handbook*, which is on file in the City Secretary's office, for more information concerning exceptions to disclosure.

V. PROVIDING PUBLIC ACCESS TO INFORMATION:

A. SIMPLE REQUESTS:

1. City employees may provide verbal responses to informal, verbal inquiries regarding readily available City information.
2. *City employees may respond to formal written requests for information that is obviously public in nature and not excepted from public disclosure, provided the information is readily available. Such information would include the following type of documents.
 - a. City Ordinances
 - b. Meeting Minutes
 - c. Maps
 - d. Audits
 - e. City Publications, i.e.:
 1. Pamphlets,
 2. Code of Ordinances,
 3. Zoning Ordinance,
 4. Subdivision Ordinance,
 5. Budgets, etc.

*City employees shall ask the requestor for a written request, if the request is unclear or if the requestor is seeking a large amount of readily available information.

3. For the benefit of the citizens, the Code of Ordinances and certain other City information is available on the City's web site. As a courtesy, City employees should inform requestors when the information being sought is also available on the City's web site at www.kaufmantx.org.

B. FORMAL REQUESTS (WRITTEN REQUESTS):

“The Act is triggered when a person submits 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. In preparing a request, a person may want to ask the governmental body what information is available. To make a request, a requestor may be required to submit the request in writing.” “...the governmental body’s duty under section 552.301(a) to request a ruling from the attorney general arises only after it receives a written request.”- Public Information Act Handbook

1. City employees are not required to create new information, to do legal research or to answer questions under the Act.
2. Except as otherwise provided in this Policy, a request for public information, also known as an open records request, must be submitted in writing. The requestor may use an Open Records Request form provided by the City (see Exhibit A) or any other written document that provides the following information:
 - a. The requestor’s name and address
 - b. The requestor’s telephone number
 - c. A clear description of the information being sought.
3. Requests for access to City information must be made to the City department that has custody of the information, except when requested via fax or e-mail. A request sent via fax or e-mail must be sent to the city secretary.

A) THE FOLLOWING PROCEDURES SHOULD BE FOLLOWED WHEN A REQUEST FOR INFORMATION IS RECEIVED:

1. The person receiving the request should date stamp the request and direct it to the proper department contact.
2. City employees cannot ask the requestor why he/she is requesting the information. A requestor’s motivation for requesting public information cannot be considered by the City.

3. A request should reasonably describe the information being sought. If the department contact cannot identify the records based on the request, the requestor may be asked to clarify the request.
4. If a large amount of information has been requested, the department contact may discuss with the requestor how the scope of the request might be narrowed.
5. The department contact must make a good faith effort to relate a request to information that exists.
6. In an effort to assure that all requests are answered in a timely manner, a copy of each request shall be sent to the city secretary within 24 hours of receipt.
7. The department contact should review the request to determine whether the information sought is open to the public.
8. If it is determined that the information is public, the department should arrange for the information to be made available to the requestor as soon as possible.
9. Public information must be provided in the format requested as long as the City is technically capable of providing the data in the requested format. In some instances, programming and manipulation of data may be necessary to comply with the request. In such cases, appropriate charges will be assessed to the requestor in accordance with the cost provisions of the Act.
10. The Act requires the information to be provided promptly. If the information is in active use, or if the information cannot be provided within ten (10) business days after the date the information is requested, the City must notify the requestor in writing of that fact and set a date and hour within a reasonable time when the information will be available for inspection or duplication. The written notice must be provided to the requestor within 10 business days after receiving the request.
 - (a) The department should notify the city secretary within five (5) days of receipt of the request if additional time will be needed and when the information can be made available to the requestor.
 - (b) The city secretary will send the written notice to the requestor.
11. After the information is provided to the requestor, the department shall attach a copy of the information that is provided to the request and send it to the city secretary for the City's official record.

12. If it appears that the information falls within one of the exceptions to public disclosure, the request should immediately be forwarded, by the fastest method, to the city attorney. A copy of the information being sought shall also be sent to the city attorney. If the request is for a large volume of information, the city attorney may be asked to come to the office to review the information.
13. The city attorney will only have ten (10) business days after the date the request is received by the City to prepare and submit a request to the Attorney General for an opinion. The city attorney will prepare and send the proper notifications to the requestor.

B) THE FOLLOWING GUIDELINES ARE TO GOVERN THE AVAILABILITY OF INFORMATION:

1. The information should be made available during regular business hours in the offices of the City department that has custody of the information.
2. Generally, a requestor may choose to inspect or to copy public information, or to both inspect and copy public information. When copies are requested, a City employee shall make the copies on behalf of the requestor.
3. Whenever practical, copies of original records should be made available to the requestor for review. Original records may not be removed from the offices of the City. Requestors may be allowed to review original records under the supervision of a city employee.
4. The examination of information by a requestor may be interrupted by the department contact, if the information is needed for use by the City.
5. The department contact and any City employee dealing with requests for public information shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media.
6. The City is not required to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the City for research purposes if the book or publication is commercially available to the public.
7. The City shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the City.

8. The City is not required to comply with standing requests for documents that will be created in the future.
9. Once the information is provided, the department contact shall document that the requestor has received the information by one of the following methods:
 - a. The requestor should be asked to sign and date the City's copy of the request if the information is picked up in person.
 - b. If the information is faxed to the requestor, the fax transmittal sheet along with the conformation showing the date and time should be kept and attached to the request.
 - c. If the information is e-mailed to the requestor, a copy of the e-mail shall be printed out, showing the date and time the e-mail was sent, and attached to the request.
 - d. If the information is mailed, the sender shall make a note of the date the information was mailed on the request.

VI. COSTS:

The following guidelines are to be used in determining and collecting costs of providing information.

1. Each department contact should carefully document expenses related to producing the information for each request, including time spent, supplies used, number of copies, etc.
2. Except as otherwise provided in this policy, the City will charge for public information in accordance with the cost rules established by the Texas Building and Procurement Commission (TBPC) and as such rules may be amended in the future. Said rules are attached hereto as Exhibit B. (The TBPC was formerly known as the Texas General Services Commission.)
3. Charges of less than one dollar (\$1.00) shall be waived (i.e. No charge for less than 10 pages of standard size paper copies at 10¢ each).
4. Whenever labor charges are applicable, the charge for less than one-half (1/2) hour of labor shall be waived.
5. The charge for information sent to the requestor via e-mail shall be waived.

6. A personnel charge (cost of labor) may not be billed for complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in:
 - a. two or more separate buildings that are not physically connected with each other; or
 - b. a remote storage facility.
7. Certain information developed by the City for the purposes of informing the public such as brochures, pamphlets, budgets, code of ordinances, etc. may be provided at a special fee established by the department director, the city manager or the city council as appropriate.
8. The City shall not charge for making available for inspection information maintained in standard paper form. Charges are permitted only when the City is asked to provide, for inspection, information that contains both confidential information and public information. When such is the case, the City may charge to make a copy of the page from which information must be edited. No other charges are allowed except as follows:

The information requested:

- a. is older than five years; or
 - b. completely fills, or when assembled will completely fill, six or more archival boxes; and
 - c. it is estimated that more than five hours will be required to make the public information available for inspection.
9. In response to requests for access, for purposes of inspection only, to information that is maintained in other than standard form, the City may not charge the requesting party the cost of preparing and making available such information, unless complying with the request will require programming or manipulation of data.
 10. If the estimated costs to provide information will exceed \$40, the City must provide a written, itemized estimate and notify the requestor of less costly alternatives. If the requestor does not respond to the written estimate within ten (10) days of the date the estimate was sent, the request is considered to be automatically withdrawn.
 - a. The department contact should notify the city secretary whenever the estimated costs will exceed \$40.00.

- b. The city secretary will send the written estimate to the requestor. The information should not be produced and/or copied until a response is received from the requestor authorizing the City to proceed with the response.
11. If the City determines that the estimated charges will exceed those detailed in the original statement by 20 percent or more, the City must send the requestor an updated statement of all such estimated costs. If the requestor does not respond in writing within ten (10) days after the date such updated statement is sent, then the request is considered withdrawn.
12. If the estimated costs exceed \$100, the City may require a bond, prepayment or deposit before providing the public information.
13. If a requestor has an overdue balance exceeding \$100 for public information, the City may obtain a security deposit before processing additional requests from the requestor.
14. The department contact should determine whether providing the information primarily benefits the general public. In such cases, the fees for providing the information may be waived. (Example – providing information to other governmental bodies or to the news media)
15. No charge may be made for electronic copies of public information that is available by direct access on the City's Internet web site.
16. If the department contact determines that a requestor has made a request for the same information that has previously been furnished to the requestor, the department contact can either:
 - a. Furnish the information again, or
 - b. Certify in writing when the information was previously provided and that no subsequent additions or corrections have been made to the information.

VII. MISCELLANEOUS:

Department contacts should address any questions regarding the policy and procedures for dealing with Open Records Requests to the city secretary.

Requestors may submit requests for information in person, by mail, via fax or e-mail.

A request sent via facsimile (fax) must be sent to the City Secretary at (972) 932-0307.

A request sent via e-mail must be sent to the City Secretary at kaufmancitysec@tvec.net.

Requests may be mailed to: 209 South Washington Street, Kaufman, Texas 75142.

Any matters or issues concerning requests for public information not addressed by this Policy shall be governed by the provisions of the Public Information Act and any other applicable laws or policies.

Helpful information on the Public Information Act is available at:

Attorney General's Web site: www.oag.state.tx.us

Open Government Hotline:

(512) 478-OPEN (6736) or

Toll-free at (877) 673-6839 (877-OPEN TEX)

Attorney General's Opinions Library: (512) 926-1730.

James P. Blystone
City Manager

Approval Date