

CITY OF PLANTERSVILLE, TEXAS

ORDINANCE No. 17-20

PUBLIC INFORMATION POLICY

AN ORDINANCE OF THE CITY OF PLANTERSVILLE, TEXAS;
ESTABLISHING REGULATIONS FOR SUBMITTING, RECEIVING, &
PROCESSING REQUESTS FOR PUBLIC INFORMATION (OPEN RECORDS);
& PROVIDING FOR THE FOLLOWING: RULES; STANDARDS;
PROCEDURES; CRIMINAL PENALTIES & SEVERABILITY.

WHEREAS, the Board of Aldermen of the City of Plantersville is a governmental body subject to the mandates of the Texas Public Information Act, Chapter 552 of the Texas Government Code; and

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

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

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

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

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or regulation that is for the good government, peace or order of the City, and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the Board of Aldermen finds that the following rules of procedure are reasonable and justified, and shall further the public interest in the effective and efficient management of public information.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the City of Plantersville:

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

Ordinance 17-20 of the City of Plantersville is hereby established, and after such shall read in accordance with *Attachment A* (Texas Information Act Information Request Form and PIA Cost of Copies for Plantersville: information from Office of Attorney General) , which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance

shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

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

5. RECORDING

The Mayor is hereby directed to record and publish the attached rules, regulations and policies in the City’s records by Chapter 52 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

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 9 day of November, 2020
by a vote of 6 (ayes) to 0 (nays) to (abstentions)
of the Board of Aldermen of the City of Plantersville.

by: Karen Hale, Mayor

Attest: Kimberly Allphin, City Secretary

PIA Cost of Copies for Plantersville: information from Office of Attorney General Website

Note: City of Plantersville does not have the capability to make many of the types of copies listed on the OAG cost list. Contact Mayor if you want something other than standard paper copies.

<u>TITLE 1</u>	ADMINISTRATION
<u>PART 3</u>	OFFICE OF THE ATTORNEY GENERAL
<u>CHAPTER 70</u>	COST OF COPIES OF PUBLIC INFORMATION

(a) The charges in this section to recover costs associated with providing copies of public information are based on estimated average costs to governmental bodies across the state. When actual costs are 25% higher than those used in these rules, governmental bodies other than agencies of the state, may request an exemption in accordance with §70.4 of this title (relating to Requesting an Exemption).

(b) Copy charge.

(1) Standard paper copy. The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page.

(2) Nonstandard copy. The charges in this subsection are to cover the materials onto which information is copied and do not reflect any additional charges, including labor, that may be associated with a particular request. The charges for nonstandard copies are:

- (A) Diskette--\$1.00;
- (B) Magnetic tape--actual cost
- (C) Data cartridge--actual cost;
- (D) Tape cartridge--actual cost;
- (E) Rewritable CD (CD-RW)--\$1.00;
- (F) Non-rewritable CD (CD-R)--\$1.00;
- (G) Digital video disc (DVD)--\$3.00;
- (H) JAZ drive--actual cost;
- (I) Other electronic media--actual cost;
- (J) VHS video cassette--\$2.50;
- (K) Audio cassette--\$1.00;

(L) Oversize paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper--See also §70.9 of this title)--\$.50;

(M) Specialty paper (e.g.: Mylar, blueprint, blueline, map, photographic--actual cost.

(c) Labor charge for programming. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the governmental body may charge for the programmer's time.

(1) The hourly charge for a programmer is \$28.50 an hour. Only programming services shall be charged at this hourly rate.

(2) Governmental bodies that do not have in-house programming capabilities shall comply with requests in accordance with §552.231 of the Texas Government Code. ***see below

(3) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of §552.261(b) of the Texas Government Code.

(d) Labor charge for locating, compiling, manipulating data, and reproducing public information.

(1) The charge for labor costs incurred in processing a request for public information is \$15 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.

(2) A labor charge shall not be billed in connection with 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.

(3) A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:

(A) To determine whether the governmental body will raise any exceptions to disclosure of the requested information under the Texas Government Code, Subchapter C, Chapter 552; or

(B) To research or prepare a request for a ruling by the attorney general's office pursuant to §552.301 of the Texas Government Code.

(4) When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(5) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Texas Government Code, Chapter 552, §552.261(b).

(6) For purposes of paragraph (2)(A) of this subsection, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

(e) Overhead charge.

(1) Whenever any labor charge is applicable to a request, a governmental body may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If a governmental body chooses to recover such costs, a charge shall be made in accordance with the methodology described in paragraph (3) of this subsection. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.

(2) An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(3) The overhead charge shall be computed at 20% of the charge made to cover any labor costs associated with a particular request. Example: if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing, $\$15.00 \times .20 = \3.00 ; or Programming labor charge, $\$28.50 \times .20 = \5.70 . If a request requires one hour of labor charge for locating, compiling, and reproducing information ($\$15.00$ per hour); and one hour of programming labor charge ($\$28.50$ per hour), the combined overhead would be: $\$15.00 + \$28.50 = \$43.50 \times .20 = \8.70 .

(f) Microfiche and microfilm charge.

(1) If a governmental body already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the governmental body should make a copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction. The Texas State Library and Archives Commission has the capacity to reproduce microfiche and microfilm for governmental bodies. Governmental bodies that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.

(2) If only a master copy of information in microfilm is maintained, the charge is \$.10 per page for standard size paper copies, plus any applicable labor and overhead charge for more than 50 copies.

(g) Remote document retrieval charge.

(1) Due to limited on-site capacity of storage documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by governmental bodies to store current records on-site. State agencies are encouraged to store inactive or non-current records with the Texas State Library and Archives Commission. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.

(2) If a governmental body has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the governmental body, the boxes must still be

searched for records that are responsive to the request, a labor charge is allowed according to subsection (d)(1) of this section.

(h) Computer resource charge.

(1) The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.

(2) These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.

(3) The charges in this subsection are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each governmental body using this cost recovery charge shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s), and set its charge accordingly. Type of System--Rate: mainframe--\$10 per CPU minute; Midsize--\$1.50 per CPU minute; Client/Server--\$2.20 per clock hour; PC or LAN--\$1.00 per clock hour.

(4) The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (d) of this section. No charge should be made for computer print-out time. Example: If a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $\$10 / 3 = \3.33 ; or $\$10 / 60 \times 20 = \3.33 .

(5) A governmental body that does not have in-house computer capabilities shall comply with requests in accordance with the §552.231 of the Texas Government Code. ****see this below*

(i) Miscellaneous supplies. The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

(j) Postal and shipping charges. Governmental bodies may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.

(k) Sales tax. Pursuant to Office of the Comptroller of Public Accounts' rules sales tax shall not be added on charges for public information (34 TAC, Part 1, Chapter 3, Subchapter O, §3.341 and §3.342).

(l) Miscellaneous charges: A governmental body that accepts payment by credit card for copies of public information and that is charged a "transaction fee" by the credit card company may recover that fee.

(m) These charges are subject to periodic reevaluation and update.

TITLE 1

ADMINISTRATION

PART 3

OFFICE OF THE ATTORNEY GENERAL

CHAPTER 70

COST OF COPIES OF PUBLIC INFORMATION

RULE §70.9

Examples of Charges for Copies of Public Information

The following tables present a few examples of the calculations of charges for information:

(1) TABLE 1 (Fewer than 50 pages of paper records): \$.10 per copy x number of copies (standard-size paper copies); + Labor charge (if applicable); + Overhead charge (if applicable); + Document retrieval charge (if applicable); + Postage and shipping (if applicable) = \$ TOTAL CHARGE.

(2) TABLE 2 (More than 50 pages of paper records or nonstandard copies): \$.10 per copy x number of copies (standard-size paper copies), or cost of nonstandard copy (e.g., diskette, oversized paper, etc.); + Labor charge (if applicable); + Overhead charge (if applicable); + Document retrieval charge (if applicable); + Actual cost of miscellaneous supplies (if applicable); + Postage and shipping (if applicable) = \$ TOTAL CHARGE.

(3) TABLE 3 (Information that Requires Programming or Manipulation of Data): Cost of copy (standard or nonstandard, whichever applies); + Labor charge; + Overhead charge; +

Computer resource charge; + Programming time (if applicable); + Document retrieval charge (if applicable); + Actual cost of miscellaneous supplies (if applicable); + Postage and shipping (if applicable) = \$ TOTAL CHARGE.

(4) TABLE 4 (Maps): Cost of paper (Cost of Roll/Avg. # of Maps); + Cost of Toner (Black or Color, # of Maps per Toner Cartridge); + Labor charge (if applicable); + Overhead charge (if applicable) + Plotter/Computer resource Charge; + Actual cost of miscellaneous supplies (if applicable); + Postage and shipping (if applicable) = \$ TOTAL CHARGE.

(5) TABLE 5 (Photographs): Cost of Paper (Cost of Sheet of Photographic Paper/Avg. # of Photographs per Sheet); + Developing/Fixing Chemicals (if applicable); + Labor charge (if applicable); + Overhead charge (if applicable); + Postage and shipping (if applicable) = \$ TOTAL CHARGE

<u>TITLE 1</u>	ADMINISTRATION
<u>PART 3</u>	OFFICE OF THE ATTORNEY GENERAL
<u>CHAPTER 70</u>	COST OF COPIES OF PUBLIC INFORMATION
<u>RULE §70.10</u>	The Attorney General Charge Schedule

The following is a summary of the charges for copies of public information that have been adopted by the Attorney General.

- (1) Standard paper copy--\$.10 per page.
- (2) Nonstandard-size copy:
 - (A) Diskette: \$1.00;
 - (B) Magnetic tape: actual cost;
 - (C) Data cartridge: actual cost;
 - (D) Tape cartridge: actual cost;
 - (E) Rewritable CD (CD-RW)--\$1.00;
 - (F) Non-rewritable CD (CD-R)--\$1.00;
 - (G) Digital video disc (DVD)--\$3.00;
 - (H) JAZ drive--actual cost;
 - (I) Other electronic media--actual cost;
 - (J) VHS video cassette--\$2.50;
 - (K) Audio cassette--\$1.00;
 - (L) Oversize paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper)--\$.50;
 - (M) Specialty paper (e.g.: Mylar, blueprint, blueline, map, photographic)--actual cost.
- (3) Labor charge:
 - (A) For programming--\$28.50 per hour;
 - (B) For locating, compiling, and reproducing--\$15 per hour.
- (4) Overhead charge-- 20% of labor charge.
- (5) Microfiche or microfilm charge:
 - (A) Paper copy--\$.10 per page;
 - (B) Fiche or film copy--Actual cost.
- (6) Remote document retrieval charge--Actual cost.
- (7) Computer resource charge:
 - (A) mainframe--\$10 per CPU minute;
 - (B) Midsize--\$1.50 per CPU minute;
 - (C) Client/Server system--\$2.20 per clock hour;
 - (D) PC or LAN--\$1.00 per clock hour.
- (8) Miscellaneous supplies--Actual cost.
- (9) Postage and shipping charge--Actual cost.
- (10) Photographs--Actual cost as calculated in accordance with §70.9(5) of this title.
- (11) Maps--Actual cost as calculated in accordance with §70.9(4) of this title.
- (12) Other costs--Actual cost.
- (13) Outsourced/Contracted Services--Actual cost for the copy. May not include development costs.
- (14) No Sales Tax--No Sales Tax shall be applied to copies of public information

TITLE 1

ADMINISTRATION

PART 3

OFFICE OF THE ATTORNEY GENERAL

CHAPTER 70

COST OF COPIES OF PUBLIC INFORMATION

RULE §70.12

Allowable Charges Under Section 552.275 of the Texas Government Code

(a) A governmental body shall utilize the methods established in 1 TAC §70.3(c) - (e) when calculating allowable charges under Section 552.275 of the Texas Government Code.

(b) When calculating the amount of time spent complying with an individual's public information request(s) pursuant to Section 552.275 of the Texas Government Code, a governmental body may not include time spent on:

- (1) Determining the meaning and/or scope of the request(s);
- (2) Requesting a clarification from the requestor;
- (3) Comparing records gathered from different sources;
- (4) Determining which exceptions to disclosure under Chapter 552 of the Texas Government Code, if any, may apply to information that is responsive to the request(s);
- (5) Preparing the information and/or correspondence required under Sections 552.301, 552.303, and 552.305 of the Government Code;
- (6) Reordering, reorganizing, or in any other way bringing information into compliance with well established and generally accepted information management practices; or
- (7) Providing instruction to, or learning by, employees or agents of the governmental body of new practices, rules, and/or procedures, including the management of electronic records

***Texas Government Code Sec. 552.231. RESPONDING TO REQUESTS FOR INFORMATION THAT REQUIRE PROGRAMMING OR MANIPULATION OF DATA. (a) A governmental body shall provide to a requestor the written statement described by Subsection (b) if the governmental body determines:

- (1) that responding to a request for public information will require programming or manipulation of data; and
- (2) that:

(A) compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or

(B) the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

(b) The written statement 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, as determined in accordance with the rules established by the attorney general under Section 552.262; and

(5) a statement of the anticipated time required to provide the information in the requested form.

(c) The governmental body shall provide the written statement to the requestor within 20 days after the date of the governmental body's receipt of the request. The governmental body has an additional 10 days to provide the statement if the governmental body gives written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed.

(d) On providing the written statement to the requestor as required by this section, the governmental body 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 governmental body that the requestor:

(1) wants the governmental body 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 governmental body agree; or

(2) wants the information in the form in which it is available.

(d-1) If a requestor does not make a timely written statement under Subsection (d), the requestor is considered to have withdrawn the request for information.

(e) The officer for public information of a governmental body shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A governmental body shall maintain a file containing all written statements issued under this section in a readily accessible location.

TEXAS PUBLIC INFORMATION ACT INFORMATION REQUEST FORM

For guidance regarding your rights as a requestor and the public information procedures adopted by this governmental body, you may review the governmental body's notice required under section 552.205 of the Government Code. You can find additional Public Information Act resources on the Office of the Attorney General's website at <http://www.texasattorneygeneral.gov/open-government>.

Date Request Submitted: _____

Requester Contact Information

First Name: _____ Last Name: _____

Company/Organization: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

E-mail Address: _____ Phone Number: _____

Preferred Manner of Written Communication: circle one: Standard Mail Email

Description of the Information Requested (Note: Describe the information as precisely as you can.)

Date Range (optional): From: _____ to: _____

Under the Public Information Act, some categories of information do not have to be released. Exceptions to disclosure fall into two general categories: 1) mandatory exceptions that make information confidential and require a governmental body to withhold information, and 2) discretionary exceptions that allow but do not require a governmental body to withhold information. You may find information about mandatory and discretionary exceptions at <https://www.texasattorneygeneral.gov>.

In most instances, a governmental body is required to request a decision from the Attorney General in order to withhold information from a requestor. However, a requestor may permit a governmental body to redact information without requesting an Attorney General decision. You are not required to agree to the redaction of any information responsive to your request, but doing so may streamline the handling of your request. If you agree to redactions in this request, then you may request the redacted information in a future information request.

In either mandatory or discretionary exceptions, a governmental body is generally required to seek a ruling from OAG unless there is a previous determination allowing the governmental to withhold the type of information it seeks to withhold. Further, if a governmental body has previously released information voluntarily that is not confidential by law, the governmental body cannot claim a discretionary exception to withhold the previously released information.

* Do you agree to the redaction of information that is subject to mandatory exceptions, provided such redactions are clearly labeled on the information you received? Circle one: YES NO

* Do you agree to the redaction of information that is subject to discretionary exceptions, provided such redactions are clearly labeled on the information you receive? Circle one: YES NO

INFORMATION PREFERENCES:

* How would you like to have the information provided? Circle one: Inspection Copies

* If available, do you wish to receive an electronic copy of the information? Circle one: Yes NO

Date & Time Received: _____ Date Responded: _____

Date Fulfilled: _____ Responder: _____

Notes: _____

Please Note: If the information requested is unclear or if a large amount of information is requested you may be contacted to discuss clarifying or narrowing your request. There may be charges associated with production of the requested information. You may find more information regarding the charges under the Public Information Act at <https://www.texasattorneygeneral.gov>.