

# **CITY OF JAMAICA BEACH STANDARD OPERATING PROCEDURES FOR PUBLIC INFORMATION REQUESTS**

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## **GENERAL**

The City Secretary is responsible for the effective disposition of Public Information Requests submitted to the City of Jamaica Beach. 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.

## **PURPOSE**

The purpose of this policy is to set out guidelines to ensure that all requests for public information are handled 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.

## **THE PUBLIC INFORMATION ACT (THE ACT)**

The Texas Public Information Act ("The Act") gives the public the right to request access to government information. 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.

The Act requires that an officer for public information of a governmental body promptly produce public information for inspection, duplication, or both on application by any person to the officer. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

If an officer for public information cannot produce public information for inspection or duplication within ten (10) business days after the date the information is requested, the officer must certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

## **INFORMATION SUBJECT TO THE PUBLIC INFORMATION ACT**

Public information includes any information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by and for a governmental body and the governmental body owns the information; has a right of access to the information; or spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

Protected health information as defined in the Act, is not public information and is not subject to disclosure.

## **PUBLIC INFORMATION IS CONTAINED IN RECORDS OF ALL FORMS**

The Public Information Act applies to recorded information in practically any medium, including: paper; film; a magnetic, optical, solid state, or other device that can store an electronic signal; tape; Mylar; and any physical material on which information may be recorded, including linen, silk, and vellum. The Act specifies the general forms in which the media containing public information exist include: a book, paper, letter, document, e-mail, Internet posting, text message, instant message, other electronic communication, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory; as well as any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

## **RIGHTS OF REQUESTORS**

All people who request public information have the right to:

- Receive treatment equal to all other requestors.
- Receive a statement of estimated charges in advance.
- Choose whether to inspect the requested information, receive a copy of the information, or both.
- Be notified when the governmental body asks the Attorney General (AG) for a ruling on whether the information may or must be withheld.
- Be copied on the governmental body's written comments to the AG stating the reason why the stated exceptions apply.
- Lodge a complaint with the AG regarding any improper charges for responding to a public information request.
- Lodge a complaint with the AG or the county attorney or criminal district attorney, as appropriate, regarding any alleged violation of the Act.

## **RESPONSIBILITIES OF REQUESTORS**

All people who request public information have the responsibility to:

- Submit a written request according to a governmental body's reasonable procedures.
- Include enough description and detail of the requested information so the governmental body can accurately identify and locate the requested items.
- Cooperate with the governmental body's reasonable requests to clarify the type or amount of information requested.
- Respond promptly in writing to all written communications from the governmental body (including any written estimate of charges).
- Make a timely payment for all valid charges.
- Keep all appointments for inspection of records or for pick-up of copies.

## **RIGHTS OF GOVERNMENTAL BODIES**

All governmental bodies responding to information requests have the right to:

- Establish reasonable procedures for inspecting or copying information.
- Request and receive clarification of vague or overly broad requests.
- Request an AG ruling regarding whether any information may or must be withheld.
- Receive timely payment for all copy charges or other charges.
- Obtain payment of overdue balances exceeding \$100 or obtain a security deposit before processing additional requests from the same requestor.
- Request a bond, prepayment or deposit if estimated costs exceed \$50.

## **RESPONSIBILITIES OF GOVERNMENTAL BODIES**

All governmental bodies responding to information requests have the responsibility to:

- Treat all requestors equally.
- Complete open records training as required by law.
- Be informed of open records laws and educate employees on the requirements of those laws.
- Inform the requestor of cost estimates and any changes in the estimates.
- Confirm the requestor agrees to pay the costs before incurring the costs.
- Provide requested information promptly.
- Inform the requestor if the information will not be provided within ten (10) business days and give an estimated date on which it will be provided.
- Cooperate with the requestor to schedule reasonable times for inspecting or copying information.
- Follow AG rules on charges; do not overcharge on any items; do not bill for items that must be provided without charge.
- Inform third parties if their proprietary information is being requested from the governmental body.
- Inform the requestor when the AG has been asked to rule on whether information may or must be withheld.
- Copy the requestor on written comments submitted to the AG stating the reasons why the stated exceptions apply.
- Comply with any AG ruling on whether an exception applies or file suit against the AG within 30 days.
- Respond in writing to all written communications from the AG regarding complaints about violations of the Act.

## **PROCEDURES FOR REQUESTING PUBLIC INFORMATION**

The Public Information Act allows a governmental body to establish reasonable procedures for responding to Public Information Request (Open Records Request). The Act also allows a governmental body to designate methods for making written requests for public information and to designate a single mailing and a single e-mailing address for receiving written requests for

public information. The City of Jamaica Beach is not required to respond to a written request for public information unless the request is received at one of the designated addresses.

All requests for public information must be in writing and directed to the City Secretary.

All written requests must be delivered to the City Secretary by one of the following designated methods/addresses:

1. United States mail at City of Jamaica Beach, Attn: City Secretary, 5264 Jamaica Beach, Jamaica Beach, TX 77554;
2. Electronic mail at [dnesbitt@ci.jamaicabeach.tx.us](mailto:dnesbitt@ci.jamaicabeach.tx.us); or
3. Hand delivery at City Hall, City Secretary Office, 16628 San Luis Pass Rd., Jamaica Beach, TX 77554.

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. In most instances, a governmental body is required to request a decision from the Attorney General as to what portions of the requested information may be withheld and what must be released to a requestor; an AG response can take up to forty-five (45) business days from the date the AG received the request for a decision. 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 a request, then you may request the redacted information in a future information request.

Public information will be made available to the public during the City's normal business hours.

A request will be considered withdrawn if the requestor: fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available; fails to pay the postage and any other applicable charges accrued on or before the 60th day after the date the requestor is informed of the charges; or fails to provide a written response on or before the 60th day after the date the governmental body sends a written request for clarification or discussion on how the scope of a large amount of information might be narrowed.

A request made by an individual for information that pertains to oneself will not be considered a Public Information Request (i.e., an accident or incident report that the subject was involved in). All inquiries regarding matters other than themselves will be classified as a Public Information Request and must submit a written request.

## **PUBLIC INFORMATION REQUEST FORM (OPTIONAL)**

A requestor may complete a City of Jamaica Beach Public Information Request Form, but use of the form is not required. The only requirement is that a request must be in writing. The City of Jamaica Beach Public Information Request Form is available at City Hall, 16628 San Luis Pass,

Jamaica Beach, TX 77554 or it may be downloaded from the City's website: <http://www.ci.jamaicabeach.tx.us/Online%20Services.htm>.

A requestor may select a preference for receipt of the requested information (i.e. view information, pick-up copies, mail copies, email).

## **CITY SECRETARY RESPONSIBILITIES**

1. The City Secretary shall be designated as the Public Information Coordinator for the City of Jamaica Beach.
2. The City Secretary shall be designated as the Public Information Officer for purposes of receiving mailed, e-mailed, or hand delivered public information requests.
3. The City Secretary shall make public information available for public inspection and/or copying; carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal; repair, renovate, or rebind public information as necessary to maintain it properly; and make reasonable efforts to obtain public information from a temporary custodian if: the information has been requested from the governmental body; the City Secretary is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information; is unable to comply with the duties imposed by the Act without obtaining the information from the temporary custodian; and the temporary custodian has not provided the information to the City Secretary (see Temporary Custodian of Public Information).
4. Upon receipt of a Public Information Request (Open Records Request), the City Secretary will date stamp, assign a PIR number (Public Information Request), and forward to the proper department for processing.
5. The City Secretary will be responsible for maintaining the Public Information Request Log.
6. Once the information is processed, the City Secretary will provide copies of the requested information to the requestor (as instructed: mail or e-mail) and/or make the information available to the requestor to view or pick-up during the City's normal business hours.
7. If the information requested cannot be promptly produced depending on the number of documents sought or availability of records, the City Secretary shall notify the requestor, in writing, within ten (10) business days and give an estimated date on which it will be provided.
8. If the information requested is exempt from public disclosure and the requestor does not grant permission to redact information that is subject to the PIA mandatory and discretionary exemption(s), the City Secretary will be responsible for requesting an Attorney General decision as to what portions of the requested information may be withheld and what must be released; as well as notifying the requestor, in writing, of the AG submittal.
9. The City Secretary will notify the requestor, in writing, of any expenses related to the request.

The City Secretary is responsible for the release of public information, she is not responsible for the use made of the information by the requestor; or the release of information after it is removed from a record as a result of an update, a correction, or a change of status of the person to whom the information pertains.

## **DEPARTMENT RESPONSIBILITIES**

1. All Public Information Requests must be directed to the City Secretary before the request will be considered activated. The City is not required to respond to a written request for public information unless the request is received at one of the designated addresses. If a Department receives a Public Information Request directly, the Department has the option to send the requestor a courtesy letter/reply informing them of the PIA law.
2. Public Information Request directed to the City Secretary will be forwarded to the proper department for processing. All requests will reference a PIR number and name of person and/or description of information sought. Departments should refer to this number/name in all information and correspondence responding to the request.
3. The Department is responsible for providing requested information to the City Secretary promptly.
4. The Department is responsible for informing the City Secretary if:
  - a. No records are available.
  - b. Records/request does not belong to that particular department.
  - c. Delays are foreseen due to the number of documents sought and/or retrieval from storage.
  - d. If delayed, must indicate a set date and hour within a reasonable time that the information will be available so that the City Secretary can notify the requestor.
  - e. Inform the City Secretary of possible expenses related to a request so that it can be relayed back to the requestor for approval before processing.

## **OWNERSHIP & PRESERVATION OF PUBLIC INFORMATION**

A current or former officer or employee of a governmental body does not have, by virtue of the officer's or employee's position or former position, a personal or property right to public information the officer or employee created or received while acting in an official capacity.

A current or former officer or employee of a governmental body who maintains public information on a privately owned device shall forward or transfer the public information to the governmental body or a governmental body server to be preserved as provided by in the Act; or preserve the public information in its original form in a backup or archive and on the privately owned device for the time described in the Act. The provisions governing the preservation, destruction, or other disposition of records or public information apply to records and public information held by a temporary custodian.

## **TEMPORARY CUSTODIAN OF PUBLIC INFORMATION**

“Temporary Custodian” as defined in the Act means an officer or employee of a governmental body who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body or the officer’s agent. The term includes a former officer or employee of the governmental body who created or received public information in the officers or employee’s official capacity that has not been provided to the officer for public information.

A temporary custodian with possession, custody, or control of public information shall surrender or return the information to the governmental body not later than the 10th day after the date the City Secretary requests the temporary custodian to surrender or return the information.

A temporary custodian's failure to surrender or return public information as required by the Act is grounds for disciplinary action by the governmental body that employs the temporary custodian or any other applicable penalties provided by state law or other law.

The governmental body is considered to receive the request for information on the date the information is surrendered or returned to the governmental body by a temporary custodian.

## **CHARGES TO THE REQUESTOR**

A person may ask to view the information, get copies of the information, or both. If a request is for copies of information, then charges approved by the Texas Public Information Act will apply. The City Secretary will be responsible for notifying and invoicing.

Common fees that apply to records requests are as follows:

Copies and/or printouts, up to 8-1/2 x 14	\$.10/page after first 10 pages
Personnel (Labor)	\$15/hour
Programming	\$28.50/hour
Overhead	\$22.50/hour
Postage	Actual Cost
Oversize paper copy (11'x17")	\$.50/page after first 10 pages
Specialty Paper (mylar, blueprint, map)	Actual Cost
Diskettes/CD's	\$1.00
DVD	\$3.00

The City can request a bond, prepayment or deposit if estimated costs exceed \$50. The amount of the deposit shall be determined by the City on a case-by-case basis. However, in most cases, the deposit will be 100% of the costs associated with the request.

## **OPEN RECORDS TRAINING**

The law requires elected and appointed officials to attend, at a minimum, a one (1) hour educational course on the Public Information Act not later than the 90th day after the date the public official takes their oath of office or assumes their duties as a public official. The public official shall provide a certificate of course completion to the City Secretary to maintain and make available for public inspection. This is a one-time-only training requirement; no refresher courses are required.

## **STANDING REQUESTS FOR COPIES OF RECORDS**

A governmental body has no duty to comply with standing requests for copies of records. If a requestor seeks documents that are not in existence at the time of the request, the governmental body may notify the requestor of this fact and ask the requestor to resubmit the request at a later time when such a record may be available. Also, the governmental body has no duty to notify the requestor in the future that the information has come into existence.