

ORDINANCE NO.2021-O-006

AN ORDINANCE ESTABLISHING A CHARGE AND REQUIRING PRIOR PAYMENT BEFORE THE CITY RESPONDS TO CERTAIN REQUESTS FOR THE PRODUCTION OF PUBLIC INFORMATION OR FOR COPIES OF PUBLIC INFORMATION IN ACCORDANCE WITH AND PURSUANT TO CHAPTER 552.275 OF THE TEXAS GOVERNMENT CODE; ESTABLISHING A REASONABLE LIMIT ON THE AMOUNT OF TIME PERSONNEL OF THE GOVERNMENTAL BODY ARE REQUIRED TO SPEND PRODUCING PUBLIC INFORMATION FOR INSPECTION OR DUPLICATION TO A REQUESTOR, AND/OR PROVIDE COPIES OF PUBLIC INFORMATION TO A REQUESTOR; ESTABLISHING COSTS TO BE PAID BY THE PUBLIC FOR REQUESTS THAT EXCEED THE REASONABLE LIMIT; PROVIDING AN EFFECTIVE DATE.

Whereas, Chapter 552.275 of the Texas Government Code authorizes a governmental body, including a City, to establish reasonable limits on the financial burden placed upon it in responding to requests for public information; and,

Whereas, the City Council has taken action to better ensure the compliance of the City's department heads and elected officials by establishing a single public information officer; and,

Whereas, the City spends considerable resources in responding to requests for public information; and,

Whereas, the City has been unable to recover costs attributable to the resources expended in responding to requests for public information; and,

Whereas, the City finds that 36 hours, per fiscal year, per requestor, as provided by Texas Government Code 552.275 is a reasonable limit on the amount of time City personnel should be required to spend producing public information for inspection or duplication for a requestor, and/or providing copies of public information to a requestor.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLANCO, TEXAS:

- 1) 36 hours, per fiscal year, per requestor, as provided by Texas Government Code 552.275 is the reasonable limit set on the amount of time City personnel are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor.
- 2) Each time the City complies with a request for public information, the City shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period.

- 3) At such time that, in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the limit established the City, the City shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be as established by rules prescribed by the Texas Attorney General under Sections 552.262(a) and (b).
- 4) If it is determined that additional time is required to prepare the written estimate under Subsection (e) of Texas Government Code § 552.275, the City shall provide the requestor with a written statement of that determination and the City shall provide the written statement under that subsection as soon as practicable, but on or before the 10th day after the date the City provided the statement under this subsection.
- 5) If the City provides a requestor with the written statement under Subsection (e) of Texas Government Code § 552.275, the City is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the City provided the written statement under that subsection, the requestor pays the lesser of, or submits a statement in writing to the City in which the requestor commits to pay the lesser of:
 - a. the actual costs incurred in complying with the requestor's request, including the cost of materials and personnel time and overhead; or
 - b. the amount stated in the written statement provided under Subsection (e) of Texas Government Code § 552.275.
- 6) If the requestor fails or refuses to pay or submit the written statement under Subsection (g) of Texas Government Code § 552.275, the requestor is considered to have withdrawn the requestor's pending request for public information.
- 7) Pursuant to § 552.275 of the Texas Government Code, the limitations adopted herein by the City pursuant to Texas Government Code § 552.275 do not apply if the requestor is:
 - a. an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:
 - (1) dissemination by a news medium or communication service provider, including:
 - (A) an individual who supervises or assists in gathering, preparing, and disseminating the news or information; or
 - (B) an individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information; or

(2) creation or maintenance of an abstract plant as described by Section 2501.004, Insurance Code.

- b. an elected official of the United States, this state, or a political subdivision of this state.
- c. a representative of a publicly funded legal services organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.
- d. In this section:

(1) "Communication service provider" has the meaning assigned by Section 22.021, Civil Practice and Remedies Code.

(2) "News medium" means a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

- (A) print.
- (B) television;
- (C) radio;
- (D) photographic;
- (E) mechanical;
- (F) electronic; and
- (G) other means, known or unknown, that are accessible to the public.

- 8) If any section, sentence, or clause in this Ordinance is for any reason held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.
- 9) This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law, and shall continue in force and affect unless repealed by a majority vote of the City Council members.

PASSED AND APPROVED: This the 31 day of August 2021.

CITY OF BLANCO, TEXAS

Rachel Lumpee

RACHEL LUMPEE
MAYOR, CITY OF BLANCO

ATTEST:

Laurie A. Cassidy
LAURIE A. CASSIDY
CITY SECRETARY, CITY OF BLANCO



Approved as to form:

Bradford E. Bullock, City Attorney