

## **TOWN OF LAKEWOOD VILLAGE**

### **ORDINANCE 23-14**

**AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE PROVIDING FOR A REASONABLE LIMIT ON THE AMOUNT OF TIME TO BE SPENT WITHOUT CHARGE FOR THE REPEAT PUBLIC INFORMATION REQUESTORS; REQUIRING PAYMENT FOR THE TIME AND EXPENDITURES INCURRED BEYOND THIS LIMIT; PROVIDING FOR EXPECTATIONS; PROVIDING FOR AN OPEN MEETING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Texas Public Information Act (Texas Gov't Code Chapter 552, or "the Act" herein) gives the public the right to request access to governmental information; and,

**WHEREAS**, the Act authorizes the governmental body to charge and to require payments from requestors before complying with certain requests for production of public information or for copies of public information; and

**WHEREAS**, in 2017, the Texas Legislature, in recognition of the fact that a municipality may expend significant resources in responding to requests for public information without recovering its costs, amended Section 552.275 of the Act, which authorizes the governmental body of a municipality to establish reasonable monthly and yearly limits on the amount of time and personnel of the governmental body are required to spend producing public information inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time; and

**WHEREAS**, Section 552.275 of the Act provides that a yearly time limit established may not be less than 36 hours for a requestor during a 12-month period that corresponds to the fiscal year of the governmental body, and a monthly time period may not be less than 15 hours for a requestor for a one-month period; and authorizes a municipality to require requestors exceeding those time limits to pay for the municipality's costs before the town will process the request if the municipality has sent a written cost estimate; and

**WHEREAS**, the Town Council desires to adopt a policy in this regard to provide a method of maximizing its human and financial resources while striking a reasonable balance with the obligation of the Town to make available public information and has determined that 36 hours is a reasonable yearly time limit and 15 is a reasonable monthly time limit to be imposed under Section 552.275.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS:**

#### **SECTION I—FINDINGS INCORPORATED**

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

## **SECTION II—POLICY ADOPTION**

That the Town Council of the Town of Lakewood Village hereby adopts the following:

### **A. DEFINITIONS:**

1. *Public Information:* All information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official town business by the Town Council or by any employee of the Town. It also includes data the Town owns or has a right of access to but was prepared or stored by a third party. The definition of “public information” applies to and includes to any electronic communication created, transmitted, received or maintained by any device. This term shall be construed in accordance with the provisions of this Act as set forth in Tex. Gov’t Code Chapter 552, as may be amended.
2. *Requestor:* a person who submits a written request to the Town of Lakewood Village for inspection or copies of public information.

### **B. POLICY:**

1. In accordance with the Section 552.275, the Town Council establishes an annual time limit of 36 hours and a monthly time limit of 15 hours as the amount of time that employees are required to devote without charge to produce public information for inspection or duplication or providing copies of public information to any one requestor. This annual time shall apply to each twelve (12) month period commencing each fiscal year beginning October 1, effective with the date of adoption of this Ordinance.
2. That the Town Secretary shall provide the requestor with a written statement of the amount of personnel time spent complying with each request and the cumulative amount of time spent complying with requests from that requestor during the applicable twelve-month period. The time spent preparing the written statement of total time spent may not be included.
3. When the time spent on responding to a particular requestor’s requests equals or exceeds the time limits imposed by Section B.1, the Town Secretary 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, even if the requester intends to only inspect the documents. The estimate must be provided on or before the tenth (10<sup>th</sup>) day after the date on which the public information was requested. The amount of the cost shall be established by the rules of the Attorney General and fee schedule as provided in the Texas Administrative Code, Title 1, Part 3, Chapter 70, Rules 70.3 as amended. Holidays and days which the Town Secretary’s office is administratively closed do not count toward the ten-day deadline.
4. If the Town Secretary determines that additional time is required to prepare the written estimate of cost and provides the requestor with a written statement of that determination, the Town Secretary shall provide the written estimate of costs required

- as soon as practicable, but on or before the 10<sup>th</sup> day after the date the Town provides the written statement that additional time is required.
5. The Town Secretary is authorized to request photo identification from a requestor for the purpose of establishing that the requestor has not:
    - i. Exceeded a limit established by the governmental body under Section B.1; and
    - ii. Concealed the requestor's identity
  6. If the Town Secretary has provided the requestor with the written estimate costs under Section B.3, and the time limits prescribed by Section B.1 have been exceeded, the Town Secretary will not be required to produce public information for inspection or duplication or to provide copies of the public information in response to the requestor's request unless on or before the 10<sup>th</sup> day after the date the Town Secretary provided the written statement under that section, the requestor
    - i. submits payment of the amount stated in the written statement provided, or
    - ii. Provides identification, and submits applicable payment as required by Government Code Section 552.262 if photo identification establishes the time limits have not been exceeded by that requestor.
  7. If the requestor fails or refuses to provide identification or submit payment as required under Section B.3, the requestor is considered to have withdrawn the requestor's pending request for public information.
  8. Any time spent complying with a request in the name of a minor is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

### **C. APPLICABILITY**

1. This Policy does not apply if the requestor is 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 new or information for and is seeking information for:
  - i. A radio or television broadcast station that hold a license issued by the Federal communications commission; or
  - ii. A newspaper that is qualified under Section 2051.044 of the Texas Gov't Code to publish legal notices or is a free newspaper of general circulation and that is

published at least once a week and available and of interest to the general public in connection with the dissemination of news; or

- iii. A newspaper of general circulation that is published on the internet by a news medium engaged in the business of disseminating news or information to the general public.
  - iv. A magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.
- 2. This Policy does not apply if the requestor is a representative of a publicly funded legal services organization that is exempt from federal income tax under Section (501)(a), Internal Revenue Code of 1986, as amended, being listed as an exempt entity under Section 501(c)(3) of that code.
  - 3. This Policy does not apply if the requestor is an elected official of the United States, this State, or a political subdivision of this State.
  - 4. This Policy does not apply to any other requestors that are specifically exempted by Section 552.275 of the Act, as may be amended.
  - 5. This Policy does not replace or supersede the other sections of the Act and does not preclude the Town from charging for cost of labor in response to a request for copies or a request for inspection for which a charge is authorized under another section of the Act. The limit established in this Policy applies to all requestors equally except as exempted by the Act.
- D. The Office of the Town Secretary will maintain and enforce this Policy. It shall be the Town Secretary's responsibility to enforce the Policy equally to all requestors except as exempted by the Act, to provide detailed statements, and to maintain a record of the cumulative amount of time each requestor has accrued toward the established limit per fiscal year. The Town Secretary is hereby expressly authorized to implement additional policies and procedures relative to the handling of requests for public information that are consistent with the Act and this Policy.


### **SECTION III—EFFECTIVE DATE**

This Ordinance shall become effective immediately upon its adoption.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN  
OF LAKEWOOD VILLAGE, TEXAS on this 12<sup>th</sup> day of October 2023.**

  
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Dr. Mark E. Vargus  
Mayor

ATTESTED:

  
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Linda Ruth, TRMC, EMC  
Town Administrator/Town Secretary

