

VILLAGE OF VOLENTE

ORDINANCE No. 2019-O-04

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, ADOPTING A POLICY TO PROVIDE FOR RECOVERY OF COSTS INCURRED TO RESPOND TO PUBLIC INFORMATION REQUESTS FROM A SINGLE REQUESTOR IN A TWELVE-MONTH PERIOD THAT EXCEED 36 HOURS OF PERSONNEL TIME OR THAT EXCEED 15 HOURS OF PERSONNEL TIME IN A ONE-MONTH PERIOD; PROVIDING FOR FINDINGS OF FACT, ENACTMENT, EXCEPTIONS, GOVERNING LAW, AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the Texas Legislature, in recognition of the fact that a city may expend significant resources in responding to requests for public information without recovering its costs, enacted Section 552.275, Texas Government Code, which authorizes the City Council to establish a reasonable limit on the amount of time that City personnel are required to spend producing public information for inspection by a requestor or providing copies of public information to a requestor without recovering labor charges;

WHEREAS, Section 552.275, Texas Government Code authorizes a City to charge requestors for all of the City's labor costs associated with requests for public information after its employees have spent a reasonable amount of time in a 12-month period or a one-month period producing public information for inspection or duplication to a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time; and

WHEREAS, the Village of Volente is a type B, General Law municipality, employing only one full-time permanent employee, the Village Secretary; and

WHEREAS, the City Council desires to adopt an ordinance in this regard to provide a method of maximizing its human and financial resources while striking a reasonable balance with the obligation of the City to make available public information, and

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

WHEREAS, the City Council find that 36 hours is a reasonable limit for the 12-month period and 15 hours is a reasonable limit for a one-month period to be imposed under Section 552.275 and is necessary for the good government, peace or order of the Village and is necessary or proper for carrying out a power granted by law to the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE VILLAGE OF VOLENTE THAT:

1. FINDINGS OF FACT

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

2. ENACTMENT

Chapter 2 Administration and Personnel, Article 2.07 Records Management, of the Village of Volente Code of Ordinances is hereby amended to add Sections 2.07.008 through 2.07.012 to read in accordance with Attachment "A", which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. STATE LAW GOVERNS

In the event of a conflict between Section 552.275, Texas Government Code and this Ordinance, Section 552.275, Texas Government Code shall control.

4. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

5. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, a public hearing was held, and that public notice of the time, place and purpose of said hearing and meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the 15 day of October 2019, by a vote of 3 (ayes) to 1 (nays) to 1 (abstentions) of the City Council of the Village of Volente, Texas.

VILLAGE OF VOLENTE:

by: Jana Nace
Jana Nace, Mayor

ATTEST:

Attachment 'A'

VILLAGE OF VOLENTE CODE OF ORDINANCES

CHAPTER 2: ADMINISTRATION AND PERSONNEL

ARTICLE 2.07: RECORDS MANAGEMENT

Sec. 2.07.008 Time limit established.

The Village may charge for the time spent by Village personnel producing, locating, compiling, manipulating data, and reproducing information for inspection or duplication, or otherwise providing copies of public information, in response to one or more requests for public information from a person, that exceeds 15 cumulative hours during a one-month period or exceeds 36 cumulative hours during a 12-month period, said period to correspond with the fiscal year of the Village. For the purposes of this division, "person" shall mean an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

Sec. 2.07.009 Exceptions.

This division does not apply if the requestor is:

- (1) 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:
 - (A) dissemination by a news medium or communication service provider, including:
 - (i) an individual who supervises or assists in gathering, preparing, and disseminating the news or information; or
 - (ii) 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

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

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

(D) "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:

(i) print;

(ii) television;

(iii) radio;

(iv) photographic;

(v) mechanical;

(vi) electronic; and

(vii) other means, known or unknown, that are accessible to the public.

(2) An elected official of the United States, this state, or a political subdivision of the state.

(3) 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.

Sec. 2.07.010 Statement of Personnel Time Spent.

The Village Secretary or the Village Secretary's designee 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 monthly and yearly period. The time spent preparing the written statement of total time spent may not be included.

Sec. 2.07.011 Time Limit Exceeded; Estimate Statement.

- (a) When 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 limits established by the governmental body under Section 2.07.008, the Village Secretary or the Village Secretary's designee 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 estimate must be provided on or before the tenth day after the date on which the public information was requested. The amount of the cost shall be established by rules prescribed by the attorney general.
- (b) If the Village Secretary or the Village Secretary's designee determines that additional time is required to prepare the written estimate of costs required by Section 2.07.011(a) and provides the requestor with a written statement of that determination, the Village Secretary or the Village Secretary's designee must provide the written estimate of costs required by Section 2.07.011(a) as soon as practicable, but on or before the 10th day after the date the Village provides the written statement that additional time is required.

Sec. 2.07.012 Requestor's Response to Estimate Statement.

- (a) After the Village Secretary or the Village Secretary's designee has provided the requestor with the written estimate of costs under Section 2.07.011, the Village will not produce public information for inspection or duplication or provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the Village provided the written statement under Section 2.07.011, the requestor submits payment of the amount stated in the written statement.
- (b) If the requestor fails or refuses to submit payment, , the requestor shall be considered to have withdrawn the requestor's pending request for public information.