

**ORDINANCE NO. 577**

**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 WINDCREST, 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), 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 representative of:
  - a. a radio or television station that holds a license issued by the Federal Communications Commission;
  - b. a newspaper that is qualified under Section 2051.044 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;

- c. if the requestor is an elected official of the United States, this state, or a political subdivision of this state;
  - d. if the requestor is 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.
- 8) If any section, sentence or clause in this Order 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 Order.
- 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 23<sup>rd</sup> day of February, 2009.

CITY OF WINDCREST, TEXAS

  
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JACK H. LEONHARDT, MAYOR

ATTEST:

  
\_\_\_\_\_  
TRACY FREIMARCK, CITY SECRETARY

APPROVED AS TO FORM:

  
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MICHAEL S. BRENNAN, CITY ATTORNEY