



RESOLUTION R-2015-128

A RESOLUTION OF THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO, TEXAS, ADOPTING A POLICY FOR THE MANAGEMENT OF ALL OPEN RECORDS REQUESTS; ESTABLISHING A POLICY FOR COSTS INCURRED TO RESPOND TO PUBLIC INFORMATION REQUESTS THAT REQUIRE LARGE AMOUNTS OF PERSONNEL TIME; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Texas Public Information Act (the Act) gives the public the right to request access to government information; and

WHEREAS, all Village departments are involved in the open records process through a designated Records Management and Open Records Officer (the Village Secretary) and are required to follow the policies and guidelines specified under the policy; and

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

WHEREAS, Section 552.275 of the Act authorizes that a governmental body may establish a reasonable limit on the amount of time personnel are required to spend producing public information for inspection or copies for a requestor without receipt of payment for the time incurred; and

WHEREAS, the Village desires to establish a time limit to compensate for the costs incurred beyond the time limit; and the Village has established that time limit as 36 hours during a fiscal year as set forth by Texas Government Code Section 552.275(b);

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO:

SECTION I

Part 1: The Open Records Request Policy is hereby adopted, and shall be effective upon passage.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed, was open to the public as required, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

SECTION II

Part 3: That this resolution shall become effective immediately upon adoption.

APPROVED AND PASSED on the 15th day of October, 2015, by a vote of
5 ayes, 0 nays, and 0 abstentions.

VILLAGE OF SALADO, TEXAS


Skip Blancett, Mayor

ATTEST:


Mary Ann Ray, Village Secretary

Open Records Policy

The Village of Salado Open Records Policy provides an orderly approach to managing municipal open records requests. It is the intent of this Policy to meet the following objectives:

- The protection of the public trust.
- Adherence to state law
- Fulfillment of requests through a uniform and consistent process

The Village Secretary is designated as the Records Management and Open Records Officer for the Village of Salado with duties and responsibilities as indicated in the provisions of the Texas Local Government Records Act. All Village departments are involved in fulfillment of open records requests and are required by Village resolution to follow the policies and guidelines specified under the policy.

The Village Secretary will maintain and enforce this policy. It shall be the Village Secretary's responsibility to enforce the policy equally to all requestors except as exempted by the Act. The Village Secretary is expressly authorized to implement additional policies and procedures relative to the handling of requests for public information that are not inconsistent with the Public Information Act and this policy.

The Open Records Policy and related forms are accessible via the Shared drive or from the Village Secretary's office.

Definitions

Public information: Information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business of the Village, and/or made or received by the Village in connection with the transaction of public business, except records that have been designated confidential by federal, state or other law.

Requestor: A person who submits a written request to inspect records, obtain copies of records, or both.

Scan: The conversion of a physical document into electronic data through a device used for that purpose.

The Public Information Act & Open Records

OPEN RECORDS REQUESTS

All information collected, assembled, or maintained by the Village is subject to the Texas Public Information Act. The Act expressly provides that such information is public, unless it falls within one of the Act's exceptions. It is important to remember the Village must either release the information, request an Attorney General decision, provide a written estimate of costs, or provide written notification of when the records will be provided, on or before the tenth business day (weekends and holidays excluded) after receiving the request. The Act also requires that readily available information that is clearly open to the public be provided to the requestor as soon as possible and not arbitrarily held for ten (10) days.

All requests for information received by the Village of Salado must be in writing and submitted to the Village Secretary's Office. Requests should be mailed to P.O. Box 219, Salado, TX 76571, Attn: Office of the Village Secretary; emailed to vos@saladotx.gov; faxed to 254-947-5061; or delivered in person to the Village Secretary's Office in the Municipal Building, 301 N. Stagecoach Road. Village employees who receive Open Records Requests should direct the requestors to submit their requests to the Village Secretary. Requestors are encouraged to utilize forms which are available by email from the Village Secretary's office and on-line.

After receiving a request for information, the Village Secretary shall contact all departments and/or members of the Board of Aldermen who may have responsive information. A Staff Response Form will accompany each request for information and must be completed by the department and/or BOA member and returned to the Village Secretary whether or not there are responsive records.

If the request is clearly a matter of public record, every attempt shall be made to provide the information within a reasonable amount of time. If there is a question as to whether the information is a matter of public record and should be released, the responder should notify the Village Secretary as quickly as possible. The Village Secretary will then consult with the Village Attorney to determine if the information should be released.

The Act provides an individual with a limited special right of access to information about himself. The situation may arise when the Village can give information to a requestor without fear that it must then be released to the general public. This applies only if the sole reason for otherwise denying access to the general public is to protect the requestor's private interests. If there are other laws that make the information confidential or laws that do not relate to the requestor's privacy, the information cannot be released to the requestor. As in every case in which staff believes an exception applies and information may be withheld, a marked copy of the information should be provided to the Village Attorney for a preliminary determination as to confidentiality. The Village Secretary will keep a log of all items routinely requested and released that do not require written request, and of those items that do require a written request.

CATEGORIES OF PUBLIC INFORMATION

Section 522.022 of the Public Information Act provides that “without limiting the amount or kind of information that is public information under the chapter the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law ...” Section 522.022(a) then lists eighteen (18) categories of information. Section 522.022(a) is not an exhaustive list of the types of information subject to the Public Information Act. Rather, it is a list of information that generally may be withheld only if it is expressly confidential under “other law”. Thus, the Act’s exceptions to disclosure generally do not apply to the categories of information contained in Section 522.022.

1. A completed report, audit, evaluation, or investigation made of, for, or by the Village.
2. The name, gender, ethnicity, salary, title, and date of employment of each employee and officer of the Village.
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by the Village if the information is not otherwise made confidential by law.
4. The name of each official and the final voting record on all proceedings in the Village.
5. All working papers, research material, and information used to estimate the need for or expenditure of public funds or taxed by the Village, on completion of the estimate.
6. The name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person reporting or paying sales and use taxes under Chapter 151, Tax Code.
7. A description of the Village’s central and field operation, including:
 - a. The established places at which the public may obtain information, submit information or requests, or obtain decisions.
 - b. The employees from whom the public may obtain information, submit information or request, or obtain decisions.
 - c. In the case of a uniformed service, the members from whom the public may obtain information, submit information or requests, or obtain decisions.
 - d. The methods by which the public may obtain information, submit information or requests, or obtain decisions.
8. A statement of the general course and method by which the Village’s functions are channeled and determined, including the nature and requirements for all formal and informal procedures.
9. A rule of procedure, a description of forms available, or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
10. A substantive rule of general applicability adopted by the Village as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by the Village.
11. Each amendment, revision, or repeal of information described by Subdivision (7)-(10).
12. Final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases, including those before the Village’s Boards and Commissions.
13. A policy statement or interpretation that has been adopted by the Village.
14. Administrative staff manuals and instructions to staff that affect a member of the public.
15. Information regarded as open to the public under the Village’s policies.

16. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
17. Information that also is contained in a public court record.
18. A settlement agreement to which the Village is a party.

CATEGORIES OF PUBLIC INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE

(For a complete listing, see Chapter 552 of the Texas Government Code.)

Section 552.101 – Confidential Information

Information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

Section 552.102 – Personnel Information

Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Note, however, that all information in the personnel file of a Village employee is to be made available to that employee or the employee's designated representative as public information is made available under the Act. (See Act for exceptions.)

Section 552.103 – Litigation or Settlement Negotiations Involving the State or Political Subdivision

- a. Information: 1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party to or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and 2) that the Attorney General or Village Attorney has determined should be withheld from public inspection.
- b. For purposes of this section, the Village is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and post-conviction remedies in state and federal court.
- c. Information relating to litigation involving the Village or an officer or employee of the Village is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Section 552.104 – Information Related to Competition or Bidding

Information that, if released, would give advantage to a competitor or bidder.

Section 552.105 – Information Related to Location or Price of Property

Information relating to:

- a. The location of real or personal property for a public purpose prior to public announcement of the project; or
- b. Appraisals or purchase price of real or personal property for a public purpose prior to the formal award or contracts for the property.

Section 552.106 -- Certain Legislative Documents

A draft or working paper involved in the preparation of proposed legislation.

Section 552.107 – Certain Legal Matters

Information:

- a. that the Attorney General or Village Attorney is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct; or
- b. which a court by order has prohibited disclosure of.

Section 552.108 – Certain Law Enforcement and Prosecution Records

- a. Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of a crime.
- b. An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.
(See Act for more details on this Section.)

Section 552.109 – Certain Private Communications of an Elected Office Holder

Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy.

Section 552.110 – Trade Secrets; Certain Commercial or Financial Information

A trade secret, or commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision.

552.111 – Agency Memoranda

An interagency or intra-agency memorandum or letter that would not be available by law to a party in litigation with the Village.

Section 552.115 – Birth and Death Records *(not currently maintained by Village of Salado)*

The section applies to municipalities that keep birth and death records. *At this time, the Village of Salado does not maintain these records.*

Section 552.116 – Audit Working Papers

An audit working paper of an audit of the state auditor or the auditor of a state agency; an institution of higher education as defined by Section 61.003, Education Code; a county; or a municipality is excepted from required public disclosure. If information in an audit working paper also is maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section. (See Act for more details).

Section 552.117 – Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information

Information that relates to the home address, home telephone number or Social Security number or that reveals whether the following person has family members:

- a. A current or former official or employee of the Village, who elects not to allow public access to such information as provided by Section 552.024 of the Act; or
- b. A peace officer as defined by Article 2.12, Code of Criminal Procedure.

Section 552.119 – Photograph of Peace Officer or Certain Security Guards

- a. A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, unless:
 - i. The officer is under indictment or charged with an offense by information;
 - ii. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
 - iii. The photograph is introduced as evidence in a judicial proceeding.
- b. A photograph exempt from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Section 552.131 – Information Relating to Economic Development Negotiations

- a. Economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:
 - i. a trade secret of the business prospect; or
 - ii. commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.
- b. Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted.

Section 552.133 – Public Power Utility Competitive Matters

The section applies to municipalities that own an electric or gas utility. *At this time, the Village of Salado does not own its own electric or gas utility.*

Section 552.136 – Confidentiality of Credit Card, Debit Card, Charge Card and Access Device Numbers

Credit cards, debit cards, charge cards, and access device numbers collected or assembled by a governmental body are confidential.

Section 552.137 – Confidentiality of a Certain Email Address

An email address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under the Act.

Section 143.089 – Texas Local Government Code: Certain Disciplinary Files of Police Officer and/or Firefighters

Prohibits the release of certain disciplinary files of police and/or firefighters.

Note: This is not a complete list of possible exceptions. For more detailed information, please see the complete text of the Public Information Act by accessing the Attorney General of Texas' website at www.oag.state.tx.us

OPEN RECORDS PROCEDURES CHECKLIST (Office of the Village Secretary)

1. The employee should direct the requestor to fill out an Open Records Request form, which is readily available on the Village website and in the lobby of the Municipal Building. The employee must not complete the form for the requestor unless the requestor is physically incapable of doing so.

The employee MUST NOT ask the requestor the reason for the request or for what purpose it is to be used.

Requests submitted via e-mail to the Village Secretary are acceptable and are processed in the same manner as a request submitted on the official form. At a minimum, the following information must be provided in the email: 1) name of requestor; 2) mailing address; 3) telephone number where requestor can be reached during normal business hours; and 4) description of information sought.

2. The employee should read the request back to the requestor before he or she departs to ensure the request is legible and specific. If the request is illegible, the employee should ask the requestor to rewrite the request clearly. If the request is too vague, the employee should ask the requestor to clarify the request so it will be clearly understood.
3. If the requested information is clearly public information pursuant to the guidelines, the employee is to collect the copying cost and release the information. However, if the cost of copies will exceed \$40.00, or if labor is charged because the request exceeds 50 pages, the Village is required by law to submit a cost estimate to the requestor. The requestor then has ten (10) business days from the date of the cost estimate to either accept the charges or modify the request. The request is considered automatically withdrawn if the requestor fails to respond by the due date. The Village Secretary's Office is responsible for preparing all cost estimates.
4. If some of the requested information is public information and some may be confidential, all information must be submitted to the Village Attorney for determination as to whether the Village will ask for a ruling from the Attorney General. Certain information may be withheld without the Village Attorney's determination: city and personal credit card numbers, Social Security numbers, driver's license numbers, personal email addresses, and certain personal information about an employee that the employee has elected to withhold from the public should be redacted (blacked out) by each department prior to the release of the information to the requestor. It is up to the Village Secretary to ensure the redacted information cannot be read (from the front and back of the page). Black china markers work very well for this task.

If information specific to an individual employee is requested, the staff member in charge of Human Resource related issues and records must be contacted to determine if that employee has elected to withhold certain personal information. All non-confidential information will be submitted to the requestor, along with a copy of any letters sent to the Attorney General's Office in response to the request. If an Attorney General ruling is

requested, the Village Attorney and the requestor will be notified. Any information that must be released to the requestor as a result of the Attorney General's decision will be provided by the Village Attorney to the Village Secretary, who will then forward the information to the requestor.

5. If requested information is clearly confidential, the person accepting the request must not refuse to allow the requestor to fill out the Open Records Request form and must not summarily dismiss the requestor. The person accepting the request must take the request and inform the requestor that it will be forwarded to the Village Attorney for a preliminary determination as to confidentiality. The Village Attorney may ask for a ruling from the Attorney General's Office within ten (10) business days of receiving the request. The Attorney General's Office will notify the Village Attorney and the requestor of its decision in writing. Any information that must be released to the requestor as a result of the Attorney General's decision will be provided by the Village Attorney to the Village Secretary, who will then forward the information to the requestor.

OPEN RECORDS REQUEST TRACKING

The Village Secretary will maintain a log to document all requests for records, whether routine or non-routine. This log also provides a means to document the amount charged and collected.

CHARGES FOR OPEN RECORDS

Service Rendered/Product	Charge
<u>Copy charges</u>	
Standard-size paper copy	\$.10 per page
Oversize paper copy (11x17, green bar, etc) <i>Not including maps/photographs using specialty paper</i>	\$.50 per page
Specialty paper (mylar, blueprint, etc.)	Actual cost
<u>Other forms of media</u>	
Diskette	\$1.00 each
Magnetic tape	Actual cost
Data cartridge	Actual cost
Tape cartridge	Actual cost
Rewritable CD (CD-RW)	\$1.00 each
<u>Other forms of media continued</u>	
Non-rewritable CD (CD-R)	\$1.00 each
Digital video disc (DVD)	\$3.00 each
JAZ drive	Actual cost
Other electronic media (flash drives, etc.)	Actual cost
VHS video cassette	\$1.00 each

Audio cassette	\$1.00 each
<u>Fax charges</u>	
Local call	\$.10 per page
Long-distance call	\$1.00 per page
<u>Labor charges for programming *</u>	
For programming personnel	\$28.50 per hour
For non-programming personnel	\$15.00 per hour
Overhead charge	20% of total labor charge
<u>Microfiche or Microfilm Charges</u>	
Paper copy	\$.10 per page
Fiche or film copy	Actual cost
<u>Remote Document Retrieval Charge</u>	Actual cost
<u>Computer Resource Charges (execution only, no print-out time)</u>	
Mainframe	\$10.00 per CPU minute
Midsized	\$1.50 per CPU minute
Client Server	\$2.20 per clock hour
PC or LAN	\$1.00 per clock hour
<u>Miscellaneous Supplies</u>	Actual cost
<u>Postal & Shipping Charges</u>	Actual cost
<u>Sales tax</u>	No sales tax shall be applied to copies of public

* Charge only if 50+ pages or if information is not readily available or requestor has amassed more than 36 hours of municipal personnel time within the current fiscal year (see **Requests that Require Large Amounts of Personnel Time** below).

SCANNED DOCUMENT POLICY

The Village has established a policy that ten (10) pages of physical documents which do not exist in electronic form or which require manual redaction, and which have been requested for delivery via email, shall be provided to the Requestor for free per month, per requestor. Request responses of more than ten (10) pages of physical documents will not be scanned for delivery via email. This policy does not apply to documents that already are in electronic format at the time of the request or to requestors exempted by the Texas Government Code, Section 552.275.

Costs per page for documents required to be scanned in order to provide by email when requested

Small numbers (10 or fewer pages) of responsive documents that are not available in electronic form or which require manual redaction can be scanned and sent to requestors via email upon request without charge.

Note: Employees are not to accept computer disks, CDs, flash drives or other media from requestors because these devices could subject the Village's computer system to viruses. Requestors wishing to obtain records on one of the media must pay the cost for the Village to provide the medium.

REQUESTS THAT REQUIRE LARGE AMOUNTS OF PERSONNEL TIME

Texas Government Code Section 552.275 allows municipalities to set a reasonable limit on the amount of time that personnel are required to spend producing public information for inspection or copies to a requestor, without receiving the costs attributable to that personnel time. Section 552.275(b) establishes that the time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to the fiscal year of the governmental body. The Village establishes a reasonable limit of 36 hours per requestor during the 12-month period that corresponded with the Village's fiscal year on the amount of time that personnel of the Village are required to spend producing public information for inspection by a requestor, or providing copies of public information to a requestor, without recovering costs attributable to that personnel time.

The Village Secretary shall keep a record of time spent per requestor in a fiscal year.

Each requestor who exceeds the 36-hour time limit in a fiscal year shall pay all costs attributable to cost of materials, personnel time, and overhead expenses necessary to comply with the request, even if the requestor intend to only inspect the documents.

This policy does not replace or supersede other sections of the Act and does not preclude the Village from charging labor for a request for copies or a request for inspection for which a charge is authorized under another section of the Public Information Act. The established limit applies to all requestors equally except as exempted by the Act.

PRIVACY & CONFIDENTIALITY OF CUSTOMER INFORMATION

The objective of this policy is to establish fair information principles for the Village of Salado in carrying out its responsibility to respect the privacy and confidentiality of its customers.

Use & Disclosure

The Village uses and discloses identifiable information (such as Social Security numbers, addresses, telephone numbers, etc.) about customers in defined and responsible ways to carry out its operations. This section describes how identifiable information about customers may be used and disclosed.

- Records may be disclosed to affiliates or contractors hired by the Village of Salado to assist in carrying out operations, such as service, billing, and management functions to include legal, audit, and collections.
- Customer information may be disclosed to and shared with commercial and consumer credit reporting agencies for credit-related activities (e.g., the reporting of delinquent or bad debt).
- Records may be disclosed to government regulators and other government agencies when authorized by law.
- Records may also be compiled in aggregate form for the Village of Salado management activities.
- Records may be disclosed when required by law, such as in response to a search warrant, subpoena, or court order. The Village may use and disclose records for investigations into employee misconduct or for law enforcement investigations. Disclosures may also be made when appropriate to protect the Village's legal rights or during emergencies if physical safety is believed to be at risk. These events are unlikely, but they are possible. The Village of Salado will take reasonable steps to limit the scope and consequences of any of these disclosures.
- Records may be shared with other municipalities and utilities under shared service agreements or to meet operational requirements.
- Records about a customer may be disclosed at the request of or with the permission of the customer.
- Customer information may be shared with affiliates and partners of the Village that offer products and services to customers.
- The Village of Salado does not sell, rent, loan, exchange, or otherwise release mailing lists of telephone lists of customers. The Village does not disclose any information about a customer to non-affiliated third parties without the prior written consent of the customer.

Disposal of Customer Information

Documents that meet retention guidelines, such as Customer Applications, will be stored within the Village of Salado prior to their destruction. Any documents that do not meet the criteria for retention will be shredded or otherwise destroyed by Village personnel in a timely manner.

Responsibility

Any employee, contractor, or agent of the Village who fails to comply with this policy may be subject to disciplinary action up to and including termination of employment or services, and may be subject to further legal action.