

014171

**AN ORDINANCE AMENDING ORDINANCE 12917,
TO REVISE THE PROCEDURES AND CHARGES
FOR PUBLIC RECORDS AND INFORMATION
PROVIDED BY THE CITY OF EL PASO**

WHEREAS, various amendments have been made to the Texas Public Information Act and the regulations of the Texas General Services Commission concerning the charges for costs of copies and access to public information; and

WHEREAS, revisions are now needed to Ordinance 12917 to revise the City's procedures and charges relating to records and information provided by the City; and

WHEREAS, the Council finds that the charges authorized in this Ordinance are reasonable; and

WHEREAS, the Council finds that the appropriate application of the interest in obtaining waivers of charges, in conjunction with Section 552.267 of the Public Information Act, is to provide for the waivers and reductions of fees only as set forth herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. Unless specific charges for records are set separately by applicable statutes, ordinance or resolution, the charges to be made by the City of El Paso for costs of copies or access to public information, in conformity with the provisions of the Texas Public Information Act and the related regulations adopted by the Texas General Services Commission, are as follows, provided however, that in the event of any conflict between this ordinance and the charges or procedures established in Texas General Services Commission regulations, the charges and procedures established in Texas General Services Commission regulations shall prevail:

TABLE A

A. Access to information/viewing records (when permissible):

- (1) Paper records: no charge unless (a) the information requested is older than 5 years; (b) the information completely fills or when assembled will completely fill 6 or more archival boxes; (c) it is estimated that more than 5 hours will be required to make the public information available for

inspection; or (d) a requested page from a paper record contains confidential information that must be edited from the record before the information can be made available. When a request for access falls within (a), (b) or (c), personnel charges may be made. When a request for access falls under (d), charges may be made only for the cost of the copy of the edited page or pages.

- (2) Electronic records: no charge unless the inspection of an electronic record requires that the city program or manipulate data or the record contains confidential information that must be edited from the record before the information can be made available. In such cases, charges may be made for printing a copy of an edited page or pages, if necessary, and the personnel charge, overhead charge, computer resource charge, and programming charge, as applicable. The department head responsible for maintaining the records or his or her designee shall provide an estimate of the charges to the requestor before the information is assembled.

TABLE B

- B. Paper records--standard size (measuring up to 8 ½ x 14") (50 or fewer pages requested):

\$.10 per page, per side
+ postage and shipping (if applicable)
or by fax:
fax charge

TABLE C

- C. Paper records--standard size (more than 50 pages requested); **or**
Paper records--standard size--stored in more than one building or in a remote storage facility (any quantity):

\$.10 per page, per side
+ personnel charge
+ overhead charge
+ actual cost of miscellaneous supplies (if applicable)
+ postage and shipping (if applicable)
or by fax:
fax charge
+ personnel charge
+ overhead charge

TABLE D

D. Paper records--non-standard size:

(1) Non-standard size paper copies produced on a nonstandard copy machine or other type of reproduction machine (the below-listed charges include a calculation of the minimum personnel and overhead charges necessary to product the copies):

(a) blue prints:

| | |
|-----------|--------|
| 18" x 24" | \$1.60 |
| 24" x 36" | 1.80 |
| 30" x 42" | 2.00 |
| 42" x 4' | 2.00 |
| 42" x 5' | 2.20 |
| 42" x 6' | 2.40 |
| 42" x 7' | 2.60 |
| 42" x 8' | 2.80 |

+ postage, shipping, and actual cost of miscellaneous supplies used for shipping, if applicable.

(b) large bond copies:

| | |
|-----------|--------|
| 12" x 18" | \$1.10 |
| 18" x 24" | 1.10 |
| 24" x 36" | 1.70 |
| 42" x 30" | 1.70 |

+ postage, shipping, and actual cost of miscellaneous supplies used for shipping, if applicable.

(c) vellum copies

| | |
|-----------|--------|
| 24" x 36" | \$2.45 |
|-----------|--------|

+ postage, shipping, and actual cost of miscellaneous supplies used for shipping, if applicable.

(2) Other non-standard size copies:

- \$.50 per page, per side
- + personnel charge
- + overhead charge
- + actual cost of miscellaneous supplies (if applicable)
- + postage and shipping (if applicable)

TABLE E

E. Photographs (printed by the Police Department):

| | First print | Each additional print |
|--|-------------|-----------------------|
| 4" x 5" color print | \$ 2.15 | \$0.95 |
| 5" x 7" color print | 2.20 | 1.00 |
| 8" x 10" color print | 2.40 | 1.20 |
| Polaroid color print | 2.75 | 1.55 |
| 4" x 5" black & white print | 3.00 | 1.80 |
| 5" x 7" black & white print | 3.25 | 2.05 |
| 8" x 10" black & white print | 3.50 | 2.30 |
| 4" x 5" black & white mug | 3.20 | 2.00 |
| Polaroid black & white print | 2.35 | 1.15 |
| + postage, shipping, and actual cost of miscellaneous supplies used for shipping, if applicable. | | |

If photographs are commercially printed, actual cost to the City for the prints.

TABLE F

F. Computer and electronic document imaging printouts:

(1) Standard documents:

\$.10 per page for standard size copy
or \$.50 per page for non-standard size copy (other than a Plotter media print)
+ personnel charge (as applicable)
+ overhead charge (as applicable)
+ computer resource charge
+ computer programming charge (if applicable)
+ miscellaneous supplies charge (if applicable)
+ postage and shipping charges (if applicable)

or by fax:

\$.10 per page (standard size copy only)
+ fax charge
+ personnel charge (as applicable)
+ overhead charge (as applicable)
+ computer resource charge
+ computer programming charge (if applicable)

- (2) Plotter media prints:
 - (a) 8 ½"x 11" print: \$.24
 - (b) 11"x 17" print: \$.24
 - (c) 18"x 24" print: \$.48
 - (d) 24" x 36" print: \$.72
 - (e) 36" x 42" print: \$.96
- + personnel charge at \$.25 per minute (exact time)
- + overhead charge at \$.05 per minute (exact time)
- + computer resource charge at \$.04 per minute (exact time)
- + miscellaneous supplies charge (if applicable)
- + postage and shipping charges (if applicable)

TABLE G

G. Non-standard copy including microfiche, microfilm, and other non-paper media storage requests (not included in Table F):

(1) Paper copies from microfiche, microfilm and other non-paper media storage:

- \$.10 per page for standard size copy
- or \$.50 per page for non-standard size copy
- + personnel charge
- + overhead charge
- + computer resource charge (if applicable)
- + computer programming charge (if applicable)
- + miscellaneous supplies charge (if applicable)
- + postage and shipping or fax charges (if applicable)

(2) Information provided on non-paper media:

Media charge:

- (a) diskette: \$1.00 each
- (b) computer magnetic tape:
 - 4 mm: \$13.50 each
 - 8 mm: \$12.00 each
 - 9-track: \$11.00 each
- (c) data cartridge:
 - 2000 series: \$17.50 each
 - 3000 series: \$20.00 each
 - 6000 series: \$25.00 each
 - 9000 series: \$35.00 each
 - 600A: \$20.00 each

- (d) tape cartridge:
 - 250 MB: \$38.00 each
 - 525 MB: \$45.00 each
- (e) VHS video cassette: \$2.50 each
- (f) audio cassette: \$1.00 each
- (g) Mylar (36", 42" and 48")
 - 3 mil.: \$.85/linear foot
 - 4 mil.: \$1.10/linear foot
 - 5 mil.: \$1.35/linear foot
- (h) any other medium: cost to the City for the medium

- + personnel charge
- + overhead charge
- + computer resource charge (if applicable)
- + computer programming charge (if applicable)
- + miscellaneous supplies charge (if applicable)
- + postage and shipping charges (if applicable)

- (3) Reproduction of microfiche, microfilm, or other media not listed above or when the City does not have the capability to reproduce the medium: actual cost to the City for the reproduction plus any other applicable charges such as personnel charge, overhead charge, postage and shipping charges, and miscellaneous supplies charge.

TABLE H

H. Special publications of the City and Geographical Information Systems Data.

| | |
|--|---------------------------|
| (1) Planning Department demo pack | \$ 16.40 |
| (2) Zoning Map Series | 156.00 |
| (3) 2025 Plan for El Paso Map Atlas | 50.00 |
| (4) 2025 Plan for El Paso Map (single 11 x 17) | 5.00 |
| (5) 2025 Plan for El Paso Map (single 24 x 36) | 9.25 |
| (6) GIS Information | |
| (a) Maps—size of longest side: | |
| up to 12" | \$1.00 |
| up to 24" | 4.50 |
| up to 36" | 9.25 |
| over 36" | 13.50 |
| (b) Digital data | \$30.00 plus cost of disk |
| (7) Street Code Book | \$29.30 |

Section 2. The following definitions and charges shall apply herein:

Definitions:

- A. Standard size: a photocopy on one side of a piece of paper produced on a standard copy machine not to exceed 8 1/2 by 14 inches in size or a computer printout on a paper not to exceed 8 1/2 by 14 inches in size. A piece of paper that is printed on both sides is counted as two copies.
- B. Nonstandard size: a photocopy on one side of a paper exceeding 8 1/2 by 14 inches in size that can be produced on a standard copy machine, or a computer printout on a paper exceeding 8 1/2 by 14 inches in size. A piece of paper that is printed on both sides is counted as two copies.

Charges:

- C. Computer programming charge: \$26.00 per hour for work done by City employees. This charge does not include the personnel time of the computer operator in connection with the execution of an existing computer program. In the event that the programming must be done by non-City employees, the charge will be the actual cost for the City.
- D. Computer resource charge: the time for executing programs to locate requested information by City employees. It does not include programming, printing time, or charges incurred when the work must be done by non-City employees. If the computer work must be done by non-City employees, the charge will be the actual cost for the City. The definitions for the various computer systems set forth in the Texas General Services Commission regulations shall apply to the determination of the type of computer system in use.

The rates for executing programs by City employees are as follows:

| <u>Type of system</u> | <u>Rate</u> |
|-----------------------|--------------------------------------|
| Mainframe | \$10.00 per minute; \$.17 per second |
| Midrange | \$ 1.50 per minute; \$.03 per second |
| Client/Server | \$ 2.20 per hour; \$.04 per minute |
| PC or LAN | \$ 1.00 per hour; \$.02 per minute |

- E. Fax charge:
 - Local transmission: \$.10 per page
 - Long distance within 915 area code: \$.50 per page
 - Long distance outside 915 area code: \$1.00 per page

- F. Miscellaneous supplies charge: the actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce or package the requested information.
- G. Overhead charge: \$3.00 per hour; \$.05 per minute. The overhead charge includes the cost of depreciation. No other charges for the cost of depreciation may be made.
- H. Personnel charge: \$15.00 per hour; \$.25 per minute. Where applicable, the cost should be prorated to recover the cost for personnel time spent to take requests, locate documents and reproduce requested information, and the actual time spent deleting or separating confidential information which is excepted from disclosure under Section 552.101, Govt Code.

Time spent locating documents shall include either the time spent to locate a file or storage box or the time spent searching through a file or storage box for a particular document, but shall NOT include both. Personnel time does NOT include time spent reviewing documents to determine whether the City will raise any exceptions to disclosure of the document.
- I. Postal and shipping charges: the actual costs to the City.

Section 3. Sales tax shall not be charged for the provision of public information by the City.

Section 4. When specific charges for records are set separately by applicable statutes, ordinances or resolutions, the charges to be made for those records shall be as set or authorized in the applicable statute, ordinance or resolution. The charges set forth herein exclude the cost of City produced publications. Such charges shall be set forth separately by ordinance or resolution of the City Council.

Section 5. When information must be commercially reproduced due to the non-availability of City equipment to reproduce the information, the charge shall be the City's cost for the reproduction, plus any other applicable charges as set forth in the applicable table under Section 1 of this Ordinance.

Section 6. The Chief Administrative Officer of the City (CAO), or the Mayor or the Mayor's designee in the CAO's absence, shall be the officer for public information for the City. The department heads, and their designees, are authorized to act as the agent for the officer for public information for the purpose of responding to requests for information in

accordance with the provisions of the Texas Public Information Act and this Ordinance, except as provided in Sections 11 and 12 of this Ordinance.

Section 7. For purposes of this Ordinance, requests for public information shall not include requests for publications of the City, records from the Municipal Court Clerk, and official requests from law enforcement and criminal justice agencies and officials for the inter-agency transfer of law enforcement records needed in the performance of official duties. Nothing in this Ordinance shall be interpreted to require the City to release information which is or may be exempted from disclosure under the Texas Public Information Act or other law which regulates or controls the release of particular information.

Section 8. When a particular request will involve considerable time and resources to process, when it is estimated that the cost of producing a request will exceed \$40.00, or when the request will require computer programming or the manipulation of data, the requestor must be advised of what may be involved in the processing of the request and be provided with an estimated date of completion and the charges that may result.

If it is estimated that a request for inspection or copies of public information will result in a charge of more than \$40.00, it shall be the responsibility of the department head responsible for maintaining the records, or his or her designee, to provide the requestor with a written itemized statement of the charges as required by Section 552.2615 of the Public Information Act. At the time the request is made, the department head or his or her designee shall advise the requestor that he or she must provide the City with a mailing, facsimile transmission or electronic mail address to receive the itemized statement.

The statement shall include: (1) detailed estimated charges including personnel charges; and (2) information advising the requestor of a less costly method of viewing the records, if one exists. The statement must advise the requestor that the request will be considered automatically withdrawn if the requestor does not respond in writing and inform the City within 10 days after the date the statement is sent that the requestor will accept the estimated charges or the requestor modifies his or her request.

If the department head or his or her designee determines after the itemized statement is sent, but before the records are made available, that the estimated charges will exceed the charges set forth in the statement by 20% or more, the department head or his or her designee shall send a revised written statement to the requestor and advise the requestor that he or she has an additional 10 days to respond in writing to the revised statement.

If the actual costs of producing the records exceeds \$40.00, charges may only be made for the actual costs not to exceed the amount estimated in a revised statement, or if no revised statement was sent, an amount not to exceed the estimated cost in the statement plus

20%. If no itemized statement was sent, the maximum charge for the records cannot exceed \$40.00 irrespective of the actual cost of producing the records.

If it is estimated that the cost will exceed \$100.00, the department head responsible for maintaining the records, or his or her designee, will also notify the requestor in the written itemized statement that the requestor must deposit the amount of the estimated cost with the City before the requested information will be produced or copied. Deposits required under this section may be paid to the City through the City Cashier or in the case of Police Department records, at the public records counters established by the Police Department.

The time deadlines referenced in this section do not affect the application of the time deadlines imposed by the Public Information Act for responding to requests and seeking opinions from the Texas Attorney General.

If the request will require computer programming or the manipulation of data, it shall be the responsibility of the department head responsible for maintaining the records or his or her designee, with the assistance of designees of the City Attorney, as requested, to provide the requestor with the written statement required by Section 552.231 of the Public Information Act in addition to any itemized statement that may be required is the cost is estimated to exceed \$40.00, and to provide a copy of such statement to the City Clerk for filing of record.

Once the processing is complete, the City will refund any portion of a deposit that exceeds the actual cost of providing the information or copies as determined under the appropriate Table in Section 1 of this Ordinance. In the event that the actual cost exceeds the estimate and deposit, the requestor shall pay the balance of the amount due before the information is delivered to him or her.

If a requestor has previous unpaid amounts that exceed \$100.00 in relation to previous requests for records made by the requestor, the department head responsible for maintaining the records or his or her designee shall require that a deposit be made by the requestor in that amount before preparing a copy of public information in response to a new request. The department head or his or her designee shall fully document the existence and amount of those unpaid amounts and shall provide a copy of that document to the requestor.

Section 9. When a particular request is repetitious or redundant within the meaning of Section 552.232 of the Public Information Act, it shall be the responsibility of the department head responsible for maintaining the records, with the assistance of designees of the City Attorney, as requested, to issue any certification required under that section.

Section 10. The officer for public information shall designate the location or locations within City facilities for the placement of the informational signs required by Section 552.205 of the Public Information Act beginning on January 3, 2000. After such designations have been made, it shall be the responsibility of each affected department head

to ensure that such signs are displayed in the manner required by statute and that worn or damaged signs are replaced immediately.

Section 11. The officer for public information, the City Clerk, and the City Attorney and his designees are authorized to waive charges for public records in accordance with the Texas Public Information Act when the costs to the City of collecting a charge will exceed the amount of the charge.

Section 12. The officer for public information or the City Clerk is authorized to waive or reduce charges, for the purposes established by and in accordance with Section 552.267 of the Public Information Act, as follows:

- A. The cost for thirty pages or less of standard size copies of paper records or computer or electronic document imaging printouts, for fifteen pages or less of non-standard size computer or electronic document imaging printouts, or copies of Texas State Peace Officer Accident Reports, plus postage or any local fax charge, shall be waived for the following requests:
- (1) official requests from the United States of America, a state, or a political subdivision of a state; or
 - (2) any request for copies of agendas of open meetings made prior to or on the date of the meeting.
- B. The cost for ten pages or less of standard size copies of paper records or computer or electronic document imaging printouts or for five pages or less of non-standard size computer or electronic document imaging printouts, plus postage or any local fax charge, shall be waived for requests for information concerning (i) City ordinances; (ii) information about the City's budget; or (iii) agendas of past open meetings and minutes of open meetings; for the following requests:
- (1) official requests from newspapers, magazines or broadcast media provided that the request is submitted on the official letterhead of the newspaper, magazine or broadcast medium or through an authorized use of the medium's e-mail address; or
 - (2) official requests from organizations granted 501(c)(3) status by the Internal Revenue Service, provided that the request is accompanied by proof of the granting of 501(c)(3) status to the organization and the information is requested for the purpose of dissemination to the general public.

B. The following definitions shall apply herein:

- (1) Newspaper shall mean a publication regularly printed and distributed, daily or weekly, containing news, opinions, advertisements and other items of general interest.
- (2) Magazine shall mean a publication, usually with a paper back and sometimes illustrated, that appears at regular intervals and contains stories, articles, etc., by various writers and, usually, advertisements.
- (3) Broadcast media shall mean legally licensed radio and television stations and other news-reporting services that post news stories on a web page accessible through the Internet.

Section 13. The charges listed herein shall also be assessed, as appropriate and as permitted by the law, when the City must make copies or provide access to its records in response to subpoenas duces tecum or other legal process which seeks the records of the City when the City is not a party to the litigation.

The City shall assess charges for notary public services performed by its employees, as permitted by Section 406.024(a), Texas Govt Code, unless the services are needed by a City employee or contractor in the course of City business or when the City requires that a document being submitted to the City be notarized.

Some of the applicable notary fees in subsections (6), (7), (8), (10), and (11) of Section 406.024(a), Govt Code, are as follows:

- (6) for administering an oath or affirmation with certificate and seal, a fee of \$6;
- (7) for a certificate under seal not otherwise provided for, a fee of \$6;
- (8) for a copy of a record or paper in the notary public's office, a fee of 50 cents for each page;
- (10) for swearing a witness to a deposition, certificate, seal, and other business connected with taking the deposition, a fee of \$6;
- (11) for a notarial act not provided for, a fee of \$6.

Section 14. The amendments to ordinance 12917 as set forth herein shall take effect on September 1, 1999.


PASSED AND APPROVED this 31st day of August, 1999.

THE CITY OF EL PASO



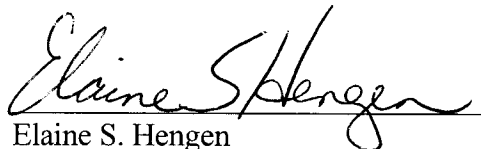
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



Elaine S. Hengen
Assistant City Attorney