

# CITY OF MONTROSE

## Data Practices Policy

Adopted October 22, 2007

### I. Introduction

These procedures are adopted to comply with the requirements of the Minnesota Data Practices Act (the "Act"), specifically Minn. Stat. Sec. 13.03, Subd. 2 and 13.05, Subd. 5 and 8.

### II. Responsible Authority

The person who is the responsible authority for compliance with the Act shall be appointed by Resolution of the City Council (currently the City Clerk/Administrator). The responsible authority may designate certain other City employees to assist in complying with the Act.

### III. Access to Public Data.

All information maintained by the City is public unless there is a specific statutory designation that gives it a different classification. Categories of classification are as follows:

Data on Individuals (Natural Persons)	Data Not on Individuals	Degree of Accessibility
Public	Public	Accessible to anyone
Private	Nonpublic	Accessible to data subjects and to government officials whose duties reasonably

		require access
Confidential	Protected Nonpublic	Accessible only to government officials whose duties reasonably require access

The City uses the State of Minnesota's General Records Retention Schedule which lists data series maintained by the City and their classifications.

### A. People Entitled to Access

Any person has the right to inspect and copy public data (there may be charges associated for obtaining copies and these charges are set forth in the City of Montrose's Fee Schedule). The person also has the right to have an explanation of the meaning of the data. The person does not need to state his or her name or give the reason for the request. However, staff may ask clarifying questions for the sole purpose of facilitating access to the data.

### B. Form of Request

The request for copies public data may be verbal or written; however, depending on the detail of the request, city staff may ask for certain requests to be in writing.

### C. Time Limits

- a. Requests will be received and processed only during normal business hours.
- b. If copies cannot be made at the time of the request or the compilation of the data requested is time consuming or cannot otherwise be immediately provided, copies must be supplied as soon as reasonably possible.

### D. Fees

Fees may be charged only if the requesting person asks for a copy or electronic transmittal of the data. Fees will be charged according to the City's fee schedule. The fee may include the actual cost of searching for, retrieving, summarizing, copying or electronically transmitting the data, and mailing costs. The fee may not include time necessary to separate public from non-public data.

The responsible authority may also charge an additional fee if the copies have commercial value and are a substantial and discrete portion of a formula, compilation, program, process, or system developed with significant expenditure

of public funds (for example, a copy of the City of Montrose City Code as a bound hardcover item). This additional fee must relate to the actual development costs of the information.

#### **IV. Access to Data on Individuals**

Information about individual people is classified by law as public, private, or confidential.

##### **A. People Entitled to Access**

- a. **Public information** about an individual may be shown or given to anyone.
- b. **Private information** about an individual may be shown or given to:
  - i. The individual, but only once every six months, unless a dispute has arisen or additional data has been collected.
  - ii. A person who has been given access by the express written consent of the data subject. This consent must be on the form attached as Exhibit 3, or a form reasonably similar.
  - iii. People who are authorized access by the federal, state, or local law or court order.
  - iv. People about whom the individual was advised at the time the data was collected. The identity of those people must be part of the Tennessee warning described below.
  - v. People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.
- c. **Confidential information** may not be given to the subject of the data, but may be shown or given to:
  - i. People who are authorized access by federal, state, or local law or court order.
  - ii. People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.

##### **B. Form of Request**

Any individual may request verbally or in writing if the City has stored data about that individual and whether the data is classified as public, private, or confidential.

All requests to see or copy private or confidential information must be in writing.

### **C. Identification of Requesting Party**

The responsible authority or designee must verify the identity of the requesting party as a person entitled to access. This can be through personal knowledge, presentation of written identification, comparison of the data subject's signature on a consent form with the person's signature in City records (when applicable), or other reasonable means.

### **D. Time Limits**

- a. Requests will be received and processed only during normal business hours.
- b. The response must be as soon as reasonably possible. In most cases it should be within 10 working days. If not, the City may have additional days to respond if it notifies the requesting person that it cannot comply and approximately how many days the City will need to comply with the request.

### **E. Fees**

Fees may be charged in the same manner as for public information.

### **F. Summary Data**

Summary data is statistical records and reports derived from data on individuals but which does not identify an individual by name or any other characteristic that could uniquely identify an individual. Summary data derived from private or confidential data is public. The responsible authority or designee will prepare summary data upon request, if the request is in writing and the requesting party pays for the cost of preparation. The responsible authority or designee must notify the requesting party about the estimated costs and collect those costs before preparing or supplying the summary data. This should be done within a reasonable amount of time after receiving the request. However, if the summary data cannot be prepared within 10 working days, the responsible authority must notify the requester of the anticipated time schedule and the reasons for the delay.

Summary data may be prepared by "blacking out" personal identifiers, cutting out portions of the records that contain personal identifiers,

programming computers to delete personal identifiers, or other reasonable means.

The responsible authority may ask an outside agency or person to prepare the summary data if (1) the specific purpose is given in writing, (2) the agency or person agrees not to disclose the private or confidential data, and (3) the responsible authority determines that access by this outside agency or person will not compromise the privacy of the private or confidential data. The responsible authority may use the form attached as Exhibit 5.

## **V. Denial of Access**

If the responsible authority or designee determines that the requested data is not accessible to the requesting party, the responsible authority or designee must inform the requesting party orally at the time of the request or in writing as soon after that is possible. The responsible authority or designee must give the specific legal authority, including statutory section, for withholding the data. The responsible authority or designee must place an oral denial in writing upon request. This must also include the specific legal authority for the denial.

## **VI. Collection of Data on Individuals**

The collection and storage of information about individuals will be limited to that necessary for the administration and management of programs specifically authorized by the state legislature, city council, public utilities commission, economic development authority, or federal government.

When an individual is asked to supply private or confidential information about the individual, the City employee requesting the information must give the individual a Tennessee warning. This warning must contain the following:

1. The purpose and intended use of the requested data
2. Whether the individual may refuse or is legally required to supply the requested data
3. Any known consequences from supplying or refusing to supply the information, and
4. The identity of other persons or entities authorized by state or federal law to receive the data.

A Tennessee warning is not required when an individual is requested to supply investigative data to a law enforcement officer.

A Tennessee warning may be on a separate form or may be incorporated into the form that requests the private or confidential data. See attached Exhibit 6.

## **VII. Challenge to Data Accuracy**

An individual who is dissatisfied with the responsible authority's action may appeal to the Commissioner of the Minnesota Department of Administration, using the contested case procedures under Minnesota Statutes Chapter 14. The responsible authority will correct any data if so ordered by the Commissioner.

## **VIII. Other laws versus policy**

There are also many miscellaneous federal laws, state laws, court orders, or other legally binding documents not listed. Each individual case may need to be reviewed for applicable statutes and rules. If an instance arises where the applicable federal laws, state laws, court order, or other legally binding document in place at that time differs from this policy the preceding will rule how the situation is handled.