

## **SILVER BAY GOVERNMENT DATA PRIVACY POLICY, PROCEDURE, AND FEES**

**EFFECTIVE MARCH 8, 2011**

The City of Silver Bay shall provide its citizens access to all government data unless classified by state or federal law as nonpublic, protected nonpublic, private or confidential, in which case, the data will be disseminated in accordance with federal and state laws. The "Request for Information" form offers protection to the citizen, the city office and classified data.

### **DEFINITIONS:**

*Confidential Data on Individuals* – data not accessible to the public or to the subject data but is accessible to agencies authorized by law to gain access.

*Designee* – any person designated by a responsible authority to be in charge of individual files or systems containing government data and to receive and comply with requests for such data.

*Nonpublic Data* – data on individuals which is not accessible to the public but is accessible to the subject of the data and to agencies authorized by law to gain access

*Private Data on Individuals* – data not accessible to the public but accessible to the individual subject of the data and to agencies authorized by law to gain access.

*Protected Nonpublic Data* – data on individuals which is not public and not accessible to the subject of the data but is accessible to agencies authorized by law to gain access.

*Public Data* – all government data not classified by state or federal law or temporary classification as nonpublic, protected nonpublic, private or confidential and is accessible to everyone.

*Reasonable Time* – time given to an office to supply requested information to the public, if immediate response is not reasonably possible (generally no more than five working days).

*Responsible Authority* – the individual designated by the governing body of the City as the person responsible for the collection use and dissemination of any set of data on individuals, government data or summary data, unless otherwise provided by state law.

*Routine Information Request* – That information which is customarily supplied to the public by an office within five minutes or less.

### **PURPOSE:**

Insure that requests are received and complied with in an appropriate and prompt manner and to track their progress through the system.

Insure that data classified other than public is disseminated in compliance with Chapter 13 "Government Data Practices" of Minnesota Statutes.

Allow the City reasonable time during the working day to produce the information requested.

Allow the City to recover the cost of searching for and retrieving government data and for making, certifying and compiling the copies of the data, but not for separating private data from public data.

## **PROCEDURE:**

1. The "Request for Information" form is used when an office is unable to immediately fulfill a request and for requests for data classified anything but public. The requestor will fill out the form.
2. Each office/division determines if the information requested is classified as public, private or confidential by comparing the request with the list of office documents.
3. If requested data is accessible to the public, office supervisor assigns this request.
4. If the data requested is classified other than public, notify the designee and the Responsible Authority.
5. If the data requested is classified other than public and inaccessible, notify the requestor in writing that the information is unavailable and why.
6. Fill the information request immediately, if possible, or within a "reasonable time", if not, and notify requestor when information is available.

## **RESPONSIBILITIES:**

City Attorney's Office – to determine when questioned if data requested, but not on office/division list, is classified as public, private or confidential and if the data is accessible to the requestor.

Designee – To familiarize self with and implement the provisions of the Minnesota Data Practices Act as well as rules and guidelines established by the Responsible Authority:

to establish procedures to insure that the data on individuals maintained by the City is accurate, complete and current.

to review each record, file or process to determine the purpose for collecting and intended use of all data classified as not public.

to review all department/division forms to insure that all data elements are necessary for official activities.

to establish appropriate safeguards and written procedures for all records classified as not public to assure authorized access.

to annually review the list of private/confidential data for designee's department/division.

to keep records of request for information and response given for a period of three years.

to review requests for data classified other than public; to allow access as appropriate under M.S. 13; to deny access as appropriate and notify requestor of denial; and to refer request to Assistant City Attorney when classified of requested data is questionable.

Office Supervisor – to compare the data requested against the list of office documents:

to determine the priority of the information request within the office workload.

to determine if there will be charges for providing the information requested.

to see that the requestor receives a response to the request.

to prepare and utilize a Tennesen Warning for collection of all not public data.

to have a copy of Section 13.04 of MN Statutes saying that the City has a reasonable time to produce the requested information, if immediate response is not reasonably possible as well as copy of this policy and procedures.

Requestor of Information – to fill in form for all except routine information requests.

Responsible Authority – Office of the City Administrator.

to ensure access to government data by the public.

to administer the Minnesota Data Practices Act.

to prepare an annual report to the public on what data within the agency is private or confidential.

to assure that data collected by the agency is limited to data which is necessary to the administration and management of programs authorized by federal, state or local government.

to limit the collection, storage, use and dissemination of private, confidential, nonpublic and protected nonpublic data to purposes communicated to the individual at the time the data was collected.

to prepare public documents setting forth the procedures in effect in the agency for providing data subjects with access to private or public data concerning themselves, and with other rights guaranteed to individuals by M.S. 13.04.

## Appendix A

### Rights of Individual Subjects of Data

An individual asked by the City to supply private or confidential data concerning himself or herself shall be informed of:

- (a) the purpose and intended use of the requested data by the City
- (b) whether the individual may refuse or is legally required to supply the requested data;
- (c) any known consequence arising from the individual's supplying or refusing to supply the private or confidential data; and
- (d) the identity of other persons or entities authorized by state or federal law to receive the data.

"Private data on individuals" is defined essentially as data which is made by statute or federal law applicable to the data, (a) not public, and (b) accessible to the individual subject of that data.

"Confidential data on individuals" is defined essentially as data which is (a) made not public by statute or federal law applicable to the data and (b) is inaccessible to the individual subject of that data.

Upon request to the City's responsible authority under the Minnesota Data Practices Act, or upon request to one of his designees, an individual shall be informed whether he or she is the subject of stored data or individuals, and whether it is classified as public, private or confidential. Upon further request of the individual, the individual who is the subject of stored private data on individuals shall be shown the data without any charge and, if he or she desires, shall be informed of the content and the meaning of that data. After an individual has been shown the private data and has been informed of its meaning, the data need not be disclosed to the individual for six months thereafter data unless a dispute or action pursuant to Section 13.04 of the Act is pending or additional data on the individual has been collected. The responsible authority of his designee shall provide copies of the private data upon request by the individual subject of the data. The actual cost of providing the copies shall be borne by the individual.

The responsible authority, or his designee, shall comply immediately, if reasonably possible, with any such request, or within five days of the data or the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible.

Any individual may contest the accuracy or completeness of public or private data concerning him or herself. To exercise the right the individual shall notify in writing the responsible authority or his designees, and shall describe the nature of the disagreement. The responsible authority or his designee shall within 30 days either (a) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individuals, or (b) notify the individual that the responsible authority or his designee believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data.

#### PROCEDURE NOTIFICATION

The City Administrator, after consultation with the City Attorney, shall prepare a "Procedure for Access to Government Data" and make that available to any person requesting access to government data. The statute provides that procedure be reviewed before August 1 of each year and make any changes necessary. It would be prudent to post the procedure notice so that the public is properly informed.

**Appendix B**

**DATA PRACTICES REQUEST FORM**

Name of Requestor: \_\_\_\_\_

Address of Requestor: \_\_\_\_\_

Phone of Requestor: \_\_\_\_\_ alternate phone \_\_\_\_\_

Email of Requestor: \_\_\_\_\_

Information being Requested (please be specific and include dates):

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

Please attach additional information if desire.

How would Requestor obtain information:

No Fees Charged:

View Data only (no copies) \_\_\_\_\_

Date and Time Requested to view (M-F from 8-4pm) \_\_\_\_\_

Charges may apply for (see Appendix C):

Electronic Submission of Data \_\_\_\_\_

Mail Data \_\_\_\_\_

Fax Data \_\_\_\_\_

Office of Administration:

Date Request was received by City: \_\_\_\_\_

Can Request be made within a reasonable time (5 days or less): \_\_\_\_\_ Yes \_\_\_\_\_ No

If No, date letter was submitted to Requestor: \_\_\_\_\_

Date Requestor provided a Tennessee Warning: \_\_\_\_\_

Data requested is classified as:

Public Data \_\_\_\_\_ Nonpublic Data \_\_\_\_\_ Private Data on Individuals \_\_\_\_\_

Protected Nonpublic Data \_\_\_\_\_

Date City Attorney was notified: \_\_\_\_\_

City Attorney response: \_\_\_\_\_

Amount of Fees Charged: \_\_\_\_\_ Date paid: \_\_\_\_\_

Date Request was completed: \_\_\_\_\_

**APPENDIX C**  
**FEES FOR PROVIDING COPIES OF PUBLIC GOVERNMENT DATA**  
**Effective March 8, 2011**

Minnesota Statutes, section 13.03 provides that, if a person requests copies or electronic transmittal of public government data, and the requester is not the subject of the data, the City of Silver Bay may require the requester to pay a fee for the actual costs incurred. The actual costs incurred may include the searching for and retrieving the data, including the cost of the employee time, and for making, certifying, compiling, and transmitting copies of the data via mail, fax, or electronically.

A. The City may charge for the following reasonable costs:

- Staff time required to
  - Retrieve documents
  - Sort and label documents, only if necessary to identify the data to be copied
  - Remove staples or paper clips
  - Take documents to copier for copying
  - Copying documents

Note: The Staff time will be assessed for labor costs (wages/salary plus benefits) of the person performing the task.

- Materials (paper, copier ink, staples, video or audio cassettes, etc.)
- Special Costs associated with making copies from computerized data, such as writing or modifying a computer program to format data.
- Mailing Costs
- Vehicle costs directly involved in transporting data to the appropriate facility when necessary to provide copies (for example, when the entity is unable to provide copying services for photographs, oversized documents, videos, etc.)
- Electricity Costs when the requester uses own scanner to make copies.

B. The City will not charge for the following:

- Purchase or rental of the City copier
- Maintenance of the City copier
- Normal operating expenses of computer/copier, including electricity used, and machine wear/tear
- Depreciation of City copier
- Staff time required to:
  - Separate public data from not public data
  - Open a data request that was mailed
  - Sort, label or review data, if not necessary to identify the data to be copied
  - Return documents to storage
  - Provide information about the data to the requestor
  - Prepare data for mailing
  - Prepare cover letter, fax sheet, or invoice for copies
  - Credit payment and perform other associated accounting functions.
- Administrative costs not related to copying
- Records storage
- Sales Tax
- Search and Retrieval costs when data is inspected but no copies requested.
- No copies will be delivered until payment for data has been received by the City in full.