

**CITY OF TONKA BAY  
ITEM NO. 9C**

# Memo

**To:** Honorable Mayor and City Council  
**From:** Joe Kohlmann, City Administrator  
**Date:** August 15, 2012  
**Re:** Data Access Policies

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The State of Minnesota has mandated that government entities must establish a Data Access Policy. Staff has prepared the *attached* Data Access Policies for your consideration.

These policies are the templates that the Department of Administration made available for government entities.

*Attached is the State Statute*

*Attached is a resolution adopting Data Access Policies*

*Attached is a Data Access Policy for Subjects*

*Attached is a Data Access Policy for members of the public*

**Council Action Requested:**

Adopt the Attached Resolution Adopting Data Access Policies for data subjects and members of the public as required by State Statute.

of sections 13.03 and 15.17. The commissioner may require responsible authorities to submit copies of the inventory and may request additional information relevant to data collection practices, policies, and procedures.

Subd. 2. **Public data access policy.** The responsible authority shall prepare a written data access policy and update it no later than August 1 of each year, and at any other time as necessary to reflect changes in personnel, procedures, or other circumstances that impact the public's ability to access data.

Subd. 3. **Data subject rights and access policy.** The responsible authority shall prepare a written policy of the rights of data subjects under section 13.04 and the specific procedures used by the government entity for access by the data subject to public or private data on individuals. The written policy must be updated no later than August 1 of each year, and at any other time as necessary to reflect changes in personnel, procedures, or other circumstances that impact the public's ability to access data.

Subd. 4. **Availability.** The responsible authority shall make copies of the policies required under subdivisions 2 and 3 easily available to the public by distributing free copies to the public or by posting the policies in a conspicuous place within the government entity that is easily accessible to the public or by posting it on the government entity's Web site.

Sec. 11. Minnesota Statutes 2010, section 13.03, subdivision 2, is amended to read:

Subd. 2. **Procedures.** (a) The responsible authority in every government entity shall establish procedures, consistent with this chapter, to insure that requests for government data are received and complied with in an appropriate and prompt manner.

~~(b) The responsible authority shall prepare public access procedures in written form and update them no later than August 1 of each year as necessary to reflect any changes in personnel or circumstances that might affect public access to government data. The responsible authority shall make copies of the written public access procedures easily available to the public by distributing free copies of the procedures to the public or by posting a copy of the procedures in a conspicuous place within the government entity that is easily accessible to the public.~~

(e) (b) Full convenience and comprehensive accessibility shall be allowed to researchers including historians, genealogists and other scholars to carry out extensive research and complete copying of all records containing government data except as otherwise expressly provided by law.

A responsible authority may designate one or more designees.

Sec. 12. Minnesota Statutes 2010, section 13.03, subdivision 4, is amended to read:

Subd. 4. **Change in classification of data; effect of dissemination among agencies.** (a) The classification of a government entity's data in the possession of an entity shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving entity.

(b) If data on individuals ~~is~~ are classified as both private and confidential by this chapter, or any other statute or federal law, the data ~~is~~ are private.

(c) To the extent that government data ~~is~~ are disseminated to a government entity by another government entity, the data disseminated shall have the same classification ~~in the hands of~~ at the entity receiving ~~it~~ them as ~~it~~ they had ~~in the hands of~~ at the entity providing ~~it~~ them.

**RESOLUTION 12-**

**A RESOLUTION ADOPTING DATA ACCESS POLICIES  
FOR DATA SUBJECTS AND MEMBERS OF THE PUBLIC**

WHEREAS, the Data Practices Act (Minnesota Statutes, Chapter 13) says that data subjects have certain rights related to a government entity collecting, creating, and keeping government data about them; and

WHEREAS, the Act also presumes that all government data are public unless a federal law says the data are not public; and

WHEREAS, Government data is a term that means all recorded information a government entity has, including paper, email, CD-ROMs, photographs, etc.; and

WHEREAS, the Data Practices Act also provides that the City of Tonka Bay must keep all government data in a way that makes it easy for members of the public to access; and

WHEREAS, recent changes to Minnesota Statutes require that the City of Tonka Bay adopt a Data Access Policies for data subjects and members of the public, copies of which are attached as Exhibits A and B.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Tonka Bay that the Data Access Policies for Data Subjects and Members of the Public are hereby adopted.

PASSED at a regular meeting of the Tonka Bay City Council this 15th day of August, 2012.

Motion introduced by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Roll Call Vote: Ayes –  
Nays –  
Absent –

\_\_\_\_\_  
William LaBelle, Mayor

ATTEST:

\_\_\_\_\_  
Joseph Kohlmann, Clerk/Administrator

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## **CITY OF TONKA BAY DATA ACCESS POLICY FOR DATA SUBJECTS**

### **Data About You**

The Data Practices Act (Minnesota Statutes, Chapter 13) says that data subjects have certain rights related to a government entity collecting, creating, and keeping government data about them. You are the subject of data when you can be identified from the data. Government data is a term that means all recorded information a government entity has, including paper, email, CD-ROMs, photographs, etc.

### **Classification of Data about You**

The Data Practices Act presumes that all government data are public unless a state or federal law says that the data are not public. Data about you are classified by state law as public, private, or confidential as shown in the following examples:

Public data: We must give public data to anyone who asks. It does not matter who is asking for the data or why. The following is an example of public data about you: you recently received a building permit for an addition to your house.

Private data: We cannot give private data to the general public, but you have access when the data are about you. The following is an example of private data about you: your Social Security number. We can share your private data with you, with someone who has your permission, with the City of Tonka Bay staff who need the data to do their work, and as permitted by law or court order.

Confidential data: Confidential data have the most protection. Neither the public nor you can get access even when the confidential data are about you. The following is an example of confidential data about you: if you register a complaint with a government entity concerning violations of state laws or local ordinances concerning the use of real property, your identity is confidential. We can share data about you with the City of Tonka Bay staff who need the data to do their work and to others as permitted by law or court order. We cannot give you access to confidential data.

### **Your Rights under the Data Practices Act**

The City of Tonka Bay must keep all government data in a way that makes it easy for you to access data about you. Also, we can collect and keep only those data about you that we need for administering and managing programs that are permitted by law. As a data subject, you have the following rights:

Your Access to Your Data: You have the right to look at (inspect), free of charge, public and private data that we keep about you. You also have the right to get copies of public and private data about you. The Data Practices Act allows us to

charge for copies. You have the right to look at data, free of charge, before deciding to request copies.

Also, if you ask, we will tell you whether we keep data about you and whether the data are public, private, or confidential.

As a parent, you have the right to look at and get copies of public and private data about your minor children (under the age of 18). As a legally appointed guardian, you have the right to look at and get copies of public and private data about an individual for whom you are appointed guardian.

Minors have the right to ask the City of Tonka Bay not to give data about them to their parent or guardian. If you are a minor, we will tell you that you have this right. We may ask you to put your request in writing and to include the reasons that we should deny your parents access to the data. We will make the final decision about your request based on your best interests. Note: Minors do not have this right if the data in question are educational data maintained by an educational agency or institution.

When We Collect Data from You: When we ask you to provide data about yourself that are not public, we must give you a notice. The notice is sometimes called a Tennessean warning. The notice controls what we do with the data that we collect from you. Usually, we can use and release the data only in the ways described in the notice.

We will ask for your written permission if we need to use or release private data about you in a different way or if you ask us to release the data to another person. This permission is called informed consent. If you want us to release data to another person, you may use the consent form we provide.

Protecting your Data: The Data Practices Act requires us to protect your data. We have established appropriate safeguards to ensure that your data are safe.

When your Data are Inaccurate and/or Incomplete: You have the right to challenge the accuracy and/or completeness of public and private data about you. You also have the right to appeal our decision. If you are a minor, your parent or guardian has the right to challenge data about you.

### **How to Make a Request for Your Data**

To look at data or request copies of data that the City of Tonka Bay keeps about you, your minor children, or an individual for whom you have been appointed legal guardian, make a written request. Make your request for data to the appropriate individual listed in the Data Practices Contacts document on page 4. You may make your written request by mail, fax, or email, using the data request form on page 6. If you choose not to use the data request form, your written request should include:

- that you are making a request, under the Data Practices Act (Minnesota Statutes, Chapter 13), as a data subject, for data about you;
- whether you would like to inspect the data, have copies of the data, or both;
- a clear description of the data you would like to inspect or have copies; and
- identifying information that proves you are the data subject, or data subject's parent/guardian

The City of Tonka Bay requires proof of your identity before we can respond to your request for data. If you are requesting data about your minor child, you must show proof that you are the minor's parent. If you are a guardian, you must show legal documentation of your guardianship. Please see the Standards for Verifying Identity document located on page 8.

### **How We Respond to a Data Request**

Once you make your written request, we will work to process your request. If it is not clear what data you are requesting, we will ask you for clarification.

- If we do not have the data, we will notify you in writing within ten business days.
- If we have the data, but the data are confidential or private data that are not about you, we will notify you in writing within ten business days and state which specific law sys you cannot access the data.
- If we have the data, and the data are public or private data about you, we will respond to your request within ten business days, by doing one of the following:
  - arrange a date, time, and place to inspect data, for free, if your request is to look at the data, or
  - provide you with copies of the data within ten business days. You may choose to pick up your copies, or we will mail or fax them to you. We will provide electronic copies (such as email or CD-ROM) upon request if we keep the data in electronic format. Information about copy charges is on page \_\_\_\_\_. We also will arrange for you to prepay for the copies.

After we have provided you with access to data about you, we do not have to show you the data again for six months unless there is a dispute or we collect or create new data about you.

If you do not understand some of the data (technical terminology, abbreviations, or acronyms), please let us know. We will give you an explanation if you ask.

The Data Practices Act does not require us to create or collect new data in response to a data request if we do not already have the data, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement. (For example, if the data you request are on paper only, we are not required to create electronic documents to respond to your request.) If we

agree to create data in response to your request, we will work with you on the details of your request, including cost and response time.

In addition, we are not required under the Data Practices Act to respond to questions that are not requests for data.

Minnesota Statutes, section 13.05, subdivision 8, requires us to have this document.

**City of Tonka Bay  
Data Practices Contacts**

**Responsible Authority**

Name Joe Kohlmann  
Address City of Tonka Bay  
4901 Manitou Road  
Tonka Bay MN 55331  
Phone 952-474-7994  
Fax 952-474-6538  
Email [jkohlmann@cityoftonkabay.net](mailto:jkohlmann@cityoftonkabay.net)

**Data Practices Designee**

Name Joe Kohlmann  
Address City of Tonka Bay  
4901 Manitou Road  
Tonka Bay MN 55331  
Phone 952-474-7994  
Fax 952-474-6538  
Email [jkohlmann@cityoftonkabay.net](mailto:jkohlmann@cityoftonkabay.net)

**Data Practices Compliance Official**

Name Joe Kohlmann  
Address City of Tonka Bay  
4901 Manitou Road  
Tonka Bay MN 55331  
Phone 952-474-7994  
Fax 952-474-6538  
Email [jkohlmann@cityoftonkabay.net](mailto:jkohlmann@cityoftonkabay.net)

**City of Tonka Bay  
Copy Costs – Data Subjects**

The City of Tonka Bay charges data subjects for copies of government data. These charges are authorized under section 13.04, subdivision 3. You must pay for the copies before we will give them to you. We do charge for copies at the rate of 25 cents per page plus sales tax.

**Actual Cost of Making the Copies**

In determining the actual cost of making copies, we factor in employee time, the cost of the materials onto which we are copying the data (paper, CD, DVD, etc.), and mailing costs (if any). If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies.

The cost of employee time to make copies is \_\_\_\_\_ per hour.

Copy charges are set by Statute or Rule.

**City of Tonka Bay  
Data Request Form – Data Subjects**

**Date of Request:** \_\_\_\_\_

To request data as a data subject, you must show a valid state ID, such as a driver's license, military ID, or passport as proof of identity.

**I am requesting access to data in the following way:**

Note: inspection is free but we charge for all copies.

Inspection                       Copies                       Both inspection and copies

**These are the data I am requesting:**

Note: Describe the data you are requesting as specifically as possible. If you need more space, please use the back of this form.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Contact Information**

Data subject name \_\_\_\_\_

Parent/guardian name (if applicable) \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email address \_\_\_\_\_

Signature of Data Subject of Parent/Guardian \_\_\_\_\_

**Staff Verification**

ID provided \_\_\_\_\_

The City of Tonka Bay will respond to your request within ten business days.

## City of Tonka Bay Standards for Verifying Identity

The following constitute proof of identity.

An **adult individual** must provide a valid photo ID, such as

- a state driver's license
- a military ID
- a passport
- a Minnesota ID
- a Minnesota tribal ID

A **minor individual** must provide a valid photo ID, such as

- a state driver's license
- a military ID
- a passport
- a Minnesota ID
- a Minnesota tribal ID
- a Minnesota school ID

The **parent or guardian of a minor** must provide a valid photo ID *and either*

- a certified copy of the minor's birth certificate *or*
- a certified copy of documents that establish the parent or guardian's relationship to the child, such as
  - a court order relating to divorce, separation, custody, foster care
  - a foster care contract
  - an affidavit of parentage

The **legal guardian for an individual** must provide a valid photo ID *and a* certified copy of appropriate documentation of informal appointment as guardian, such as

- court order(s)
- valid power of attorney

Note: Individuals who do not exercise their data practices rights in person must provide either notarized or certified copies of the documents that are required *or* an affidavit of ID.

# **CITY OF TONKA BAY DATA ACCESS POLICY FOR MEMBERS OF THE PUBLIC**

## **Right to Access Public Data**

The Data Practices Act (Minnesota Statutes, Chapter 13) presumes that all government data are public unless a state or federal law says that the data are not public. Government data is a term that means all recorded information a government entity has, including paper, email, CD-ROMs, photographs, etc.

The Data Practices Act also provides that the City of Tonka Bay must keep all government data in a way that makes it easy for you, as a member of the public, to access data about you. You have the right to look at (inspect), free of charge, public and private data that we keep. You also have the right to get copies of public data. The Data Practices Act allows us to charge for copies. You have the right to look at data, free of charge, before deciding to request copies.

## **How to Make a Request for Your Data**

To look at data or request copies of data that the City of Tonka Bay keeps, make a written request. Make your request for data to the appropriate individual listed in the Data Practices Contacts document on page 3. You may make your written request by mail, fax, or email, using the data request form on page 5. If you choose not to use the data request form, your written request should include:

- that you are making a request, under the Data Practices Act (Minnesota Statutes, Chapter 13), as a data subject, for data about you;
- whether you would like to inspect the data, have copies of the data, or both;
- a clear description of the data you would like to inspect or have copies; and

The City of Tonka Bay cannot require you, as a member of the public, to identify yourself or explain the reason for your data request. However, depending on how you want us to process your request (if, for example, you want us to mail you copies of data), we may need some information about you. If you choose not to give us any identifying information, we will provide you with contact information so you may check on the status of your request. In addition, please keep in mind that if we do not understand your request and have no way to contact you, we will not be able to begin processing your request.

## **How We Respond to a Data Request**

Upon receiving your written request, we will work to process it.

- If we do not have the data, we will notify you as soon as reasonably possible.
- If we have the data, but the data are not public, we will notify you in writing as soon as reasonably possible and state which specific law says the data are not public.

- If we have the data, and the data are public, we will respond to your request appropriately and promptly, within a reasonable amount of time by doing one of the following:
  - arrange a date, time, and place to inspect data, for free, if your request is to look at the data, or
  - provide you with copies of the data as soon as reasonably possible. You may choose to pick up your copies, or we will mail or fax them to you. If you want us to send you the copies, you will need to provide us with an address or fax number. We will provide electronic copies (such as email or CD-ROM) upon request if we keep the data in electronic format. Information about copy charges is on page 4. We also will arrange for you to prepay for the copies.

If you do not understand some of the data (technical terminology, abbreviations, or acronyms), please let us know. We will give you an explanation if you ask.

The Data Practices Act does not require us to create or collect new data in response to a data request if we do not already have the data, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement. (For example, if the data you request are on paper only, we are not required to create electronic documents to respond to your request.) If we agree to create data in response to your request, we will work with you on the details of your request, including cost and response time.

In addition, the Data Practices Act to respond to questions that are not requests for data.

### **Requests for Summary Data**

Summary data are statistical records or reports that are prepared by removing all identifiers from private or confidential data on individuals. The preparation of summary data is not a means to gain access to private or confidential data. The City of Tonka Bay will prepare summary data if you make your request in writing and pre-pay for the cost of creating the data. Upon receiving your written request using the data request form on page 5, we will respond within ten business days with the data or details of when the data will be ready and how much we will charge.

Minnesota Statutes, section 13.05, subdivision 8, requires us to have this document.

**City of Tonka Bay  
Data Practices Contacts**

**Responsible Authority**

Name Joe Kohlmann  
Address City of Tonka Bay  
4901 Manitou Road  
Tonka Bay MN 55331  
Phone 952-474-7994  
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**City of Tonka Bay**  
**Copy Costs – Members of the Public**

The City of Tonka Bay charges data subjects for copies of government data. These charges are authorized under section 13.04, subdivision 3. You must pay for the copies before we will give them to you. We do charge for copies at the rate of 25 cents per page plus sales tax for 100 or fewer paper copies.

**Most Other Types of Copies – Actual Cost**

The charge for most other types of copies, when a charge is not set by statute or rule, is the actual cost of searching for and retrieving the data, and making the copies or electronically transmitting the data (e.g. sending the data by email).

In determining the actual cost of making copies, we factor in employee time, the cost of the materials onto which we are copying the data (paper, CD, DVD, etc.), and mailing costs (if any). If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies.

The cost of employee time to search for data, retrieve data, and make copies is \_\_\_\_\_ per hour. If, because of the subject matter of your request, we find it necessary for a higher-paid employee to search for and retrieve the data, we will calculate the search and retrieval portion of the copy charge at the higher salary/wage.

Copy charges are set by Statute or Rule.

**City of Tonka Bay  
Data Request Form – Members of the Public**

**Date of Request:** \_\_\_\_\_

**I am requesting access to data in the following way:**

Note: inspection is free but we charge for all copies.

Inspection                       Copies                       Both inspection and copies

**These are the data I am requesting:**

Note: Describe the data you are requesting as specifically as possible. If you need more space, please use the back of this form.

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**Contact Information**

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email address \_\_\_\_\_

You do not have to provide any of the above contact information. However, if you want us to mail you copies of data, we will need some type of contact information. In addition, if we do not understand your request and need to get clarification from you, without contact information, we will not be able to begin processing your request until you contact us.

The City of Tonka Bay will respond to your request as soon as reasonably possible.