

**SHERWOOD FOREST WEST HOMEOWNERS ASSOCIATION, INC.
RECORDS RETENTION AND OPEN RECORDS REQUEST POLICY**

Sherwood Forest West Homeowners Association, Inc. ("Association") a Texas non-profit property owners association, in order to be compliant with the laws applicable to property owners associations in the State of Texas, has adopted the following policy regarding the records of the Association.

Records Retention Policy

In accordance with Section 209.005 of the Texas Property Code, Sherwood Forest West Homeowners Association, Inc. shall be retain the following books and records:

- **Dedictory Instruments** (*including Articles of Incorporation, Declarations, By-Laws, Instruments Regarding the Governance and Operation of the Association; Rules and Regulations, and any Amendments thereto*) – shall be retained indefinitely.
- **Financial Books and Records** – shall be retained for at least seven (7) years.
- **Account Records of Current Owners** – shall be retained for at least five (5) years.
- **Contracts with a term of one (1) year or more** – shall be retained for at least four (4) years from the date of the expiration of the contract.
- **Minutes of Meetings of the Owners or Board of Directors** – shall be retained for at least seven (7) years.
- **Tax Returns and Audit Records** – shall be retained for at least seven (7) years.

Open Records Request

A member may request to examine the books and records of the Association, including financial records. A member who submits to the Association a designation, in writing, signed by the member, may authorize access of the Association books and records to the member's duly designated agent, attorney or certified public accountant.

Requirements for Open Records Request

A member who wishes to examine the books and records of the Association must make his request in writing, and must send the request to the Association via certified mail. The member must state with reasonable specificity the books and records the member wishes to examine. The member must make an election in his request to either: (1) inspect the books and records in person; or (2) have copies made of the requested books and records. The member must provide in his request his name, proof of membership, address within the Association, address where the member wishes to have the requested information sent (if the homeowner opts to have the requested records mailed), and must pay in advance all applicable postage costs associated with sending the requested information to the member. If the member elects to inspect the books and

records in person, the member should contact the Association to arrange a time, during normal business hours, to inspect the books and records at a location designated by the Association for such purpose.

Association Response

The Association shall respond to the member's request within ten (10) business days of receipt of the request. If the member requests inspection of the books and records, the Association will respond with the date, time and location where the books and records may be reviewed. If the member requests copies of the books and records, the Association will respond by producing the copies of the requested books and records; provided, however, the member has paid for the production costs in advance.

If for some reason the requested books and records are not available by the tenth (10th) business day from the date the Association received the request, the Association will notify the member, within ten (10) business day of receipt of the request, of the date at which time the requested books and records will be available. The Association will have an additional thirty (30) days from such notification to produce the requested books and records.

The Association may opt to produce the requested records in hard copy, electronic, or other form, reasonably available to the Association.

Fees and Costs

If the member elects to have copies made of the requested books and records, the Association may charge the member reasonable fees for compilation, production and reproduction of the information requested by the member, in accordance with the guidelines established in Rule 70.3 of the Texas Administrative Code. A list of the relevant charges applicable to an open records request are included at the end of this policy and labeled Appendix "A." If the member requests the records be mailed to the member, the Association may charge the member for all costs of delivery.

A member requesting copies of books and records must pay in advance for the estimated cost of production, including delivery costs, if applicable. The Association will provide an estimate of those costs to the member. In the event the actual costs for production of the requested records either exceed or are less than the estimated costs paid by the member, the Association will provide an invoice of actual costs to the member, within thirty (30) days of delivery of the requested records. If actual costs exceed the estimated costs paid by the member, the member must pay those additional costs to the Association within thirty (30) days of receipt of the Association's invoice. If the member fails to submit payment of the invoice within thirty (30) days of receipt, those costs become an assessment on the member's account, and the Association may seek collection of those costs. In the event actual costs are less than the estimated costs paid

by the member, the Association will reimburse the difference to the member within thirty (30) days of delivery of the invoice.

Certain Records Not Subject to Request for Inspection

The Texas Property Code exempts certain Association books and records from disclosure to a member who has made an open records request to the Association. These exempt records include:

- Association records regarding deed restriction violations on an individual owner's property;
- Association records regarding delinquency on an individual owner's account;
- Attorney/client privileged information;
- Any other information which is subject to a privilege from disclosure under state or federal law, due to privacy concerns, or attorney work product exceptions.

ADOPTED by affirmative vote of the Board of Directors this 13 day of Sept., 2022.

Sandy Bastien

Sandy Bastien Secretary, Sherwood Forest West Homeowners Association, Inc.

SHERWOOD FOREST WEST HOMEOWNERS ASSOCIATION, INC.

**RECORDS RETENTION AND OPEN RECORDS REQUEST POLICY
APPENDIX "A"**

The following charges are taken from the Texas Administrative Code, Title 1, Chapter 70, Rule 70.3, and are adopted by Sherwood Forest West Homeowners Association, Inc. to apply to requests of members, or their duly designated agent, attorney or certified public account, for copies of books and records of Sherwood Forest West Homeowners Association, Inc.:

RULE §70.3 Charges for Providing Copies of Public Information

- (a) **The charges in this section to recover costs associated with providing copies of public information are based on estimated average costs to governmental bodies across the state. When actual costs are 25% higher than those used in these rules, governmental bodies other than agencies of the state, may request an exemption in accordance with §70.4 of this title (relating to Requesting an Exemption).**
- (b) **Copy charge.**
- (1) Standard paper copy. The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page.
- (2) Nonstandard copy. The charges in this subsection are to cover the materials onto which information is copied and do not reflect any additional charges, including labor, that may be associated with a particular request. The charges for nonstandard copies are:
- (A) Diskette--\$1.00;
 - (B) Magnetic tape--actual cost
 - (C) Data cartridge--actual cost;
 - (D) Tape cartridge--actual cost;
 - (E) Rewritable CD (CD-RW)--\$1.00;
 - (F) Non-rewritable CD (CD-R)--\$1.00;
 - (G) Digital video disc (DVD)--\$3.00;
 - (H) JAZ drive--actual cost;
 - (I) Other electronic media--actual cost;
 - (J) VHS video cassette--\$2.50;
 - (K) Audio cassette--\$1.00;
 - (L) Oversize paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper--See also §70.9 of

this title)--\$.50;

- (M) Specialty paper (e.g.: Mylar, blueprint, blue-line, map, photographic--actual cost.

(c) **Labor charge for programming.** If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the governmental body may charge for the programmer's time.

- (1) The hourly charge for a programmer is \$28.50 an hour. Only programming services shall be charged at this hourly rate.
- (2) Governmental bodies that do not have in-house programming capabilities shall comply with requests in accordance with §552.231 of the Texas Government Code.
- (3) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of §552.261(b) of the Texas Government Code.

(d) **Labor charge for locating, compiling, manipulating data, and reproducing public information.**

- (1) The charge for labor costs incurred in processing a request for public information is \$15 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.
- (2) A labor charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in:
 - (A) Two or more separate buildings that are not physically connected with each other; or
 - (B) A remote storage facility.
- (3) A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:
 - (A) To determine whether the governmental body will raise any exceptions to disclosure of the requested information under the Texas Government Code, Subchapter C, Chapter 552; or
 - (B) To research or prepare a request for a ruling by the attorney general's office pursuant to §552.301 of the Texas Government Code.
- (4) When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information

in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

- (5) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Texas Government Code, Chapter 552, §552.261(b).
- (6) For purposes of paragraph (2)(A) of this subsection, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

(e) Overhead charge.

- (1) Whenever any labor charge is applicable to a request, a governmental body may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If a governmental body chooses to recover such costs, a charge shall be made in accordance with the methodology described in paragraph (3) of this subsection. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.
- (2) An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).
- (3) The overhead charge shall be computed at 20% of the charge made to cover any labor costs associated with a particular request. Example: if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing, $\$15.00 \times .20 = \3.00 ; or Programming labor charge, $\$28.50 \times .20 = \5.70 . If a request requires one hour of labor charge for locating, compiling, and reproducing information ($\$15.00$ per hour); and one hour of programming labor charge ($\$28.50$ per hour), the combined overhead would be: $\$15.00 + \$28.50 = \$43.50 \times .20 = \8.70 .

(f) Microfiche and microfilm charge.

- (1) If a governmental body already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the governmental body should make a

copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction. The Texas State Library and Archives Commission has the capacity to reproduce microfiche and microfilm for governmental bodies. Governmental bodies that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.

- (2) If only a master copy of information in microfilm is maintained, the charge is \$.10 per page for standard size paper copies, plus any applicable labor and overhead charge for more than 50 copies.

(g) Remote document retrieval charge.

- (1) Due to limited on-site capacity of storage documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by governmental bodies to store current records on-site. State agencies are encouraged to store inactive or non-current records with the Texas State Library and Archives Commission. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.

- (2) If a governmental body has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the governmental body, the boxes must still be searched for records that are responsive to the request, a labor charge is allowed according to subsection (d)(1) of this section.

(h) Computer resource charge.

- (1) The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.
- (2) These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.
- (3) The charges in this subsection are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each governmental body using this cost recovery charge shall determine which category(ies) of computer

system(s) used to fulfill the public information request most closely fits its existing system(s), and set its charge accordingly. Type of System--Rate: mainframe--\$10 per CPU minute; Midsize--\$1.50 per CPU minute; Client/Server--\$2.20 per clock hour; PC or LAN--\$1.00 per clock hour.

- (4) The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (d) of this section. No charge should be made for computer print-out time. Example: If a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $\$10 / 3 = \3.33 ; or $\$10 / 60 \times 20 = \3.33 .
- (5) A governmental body that does not have in-house computer capabilities shall comply with requests in accordance with the §552.231 of the Texas Government Code.
- (i) **Miscellaneous supplies.** The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.
- (j) **Postal and shipping charges.** Governmental bodies may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.
- (k) **Sales tax.** Pursuant to Office of the Comptroller of Public Accounts' rules sales tax shall not be added on charges for public information (34 TAC, Part 1, Chapter 3, Subchapter O, §3.341 and §3.342).
- (l) **Miscellaneous charges:** A governmental body that accepts payment by credit card for copies of public information and that is charged a "transaction fee" by the credit card company may recover that fee.
- (m) **These charges are subject to periodic reevaluation and update.**