

EXHIBIT A

**CITY OF TWO HARBORS**

**CITY HALL**

**MINNESOTA GOVERNMENT DATA PRACTICES  
ACT PROCEDURES**

## **I. Introduction.**

These procedures are adopted to comply with the requirements of the Minnesota Government Data Practices Act (the "MGDPA"), specifically Minnesota Statutes Chapter 13.

All information maintained by the City is public unless classified as not public by a state statute or a federal law. Any person has the right to inspect and copy public data. The person also has the right to have an explanation of the meaning of the public data.

## **II. Responsible Authority and Data Practices Compliance Official.**

The person who is the responsible authority and data practices compliance official under the Act is the City Administrator. The data practices compliance official is the City employee to whom persons may direct questions or concerns regarding problems in obtaining access to information. The responsible authority has designated certain other City employees to assist in complying with the Act. These designees are listed on attached Exhibit 1. The responsible authority or designee must complete the relevant portions of this form.

As the data practices compliance official, the City Administrator is also responsible for answering questions, concerns, or complaints regarding problems in obtaining access to information.

## **III. Requests for Data.**

### **A. Form of Request and Response.**

**Request.** The request for data must be written. A City of Two Harbors Information Disclosure Request Form, Minnesota Government Data Practices Act ("MGDPA Request Form"), must be completed, attached hereto as Exhibit 2.

An individual is not required to provide his/her name on the MGDPA Request Form, however, the burden is then on the individual to check with the responsible authority or designee on the status of the MGDPA request.

**Response.** The responsible authority or the designee will then respond to the MGDPA request.

If the data is maintained in electronic format and is requested to be electronic format, then it must be provided in that medium. This does not mean that the City will provide the data in an electronic format or program that is different from what the City has.

### **B. Time Limits.**

**Requests.** MGDPA requests will be received and processed only during normal business hours.

**Response.** Responses to MGDPA requests will be made at the time of the request or as soon thereafter as possible. If the data requested is Data on Individuals, by the subject of the data, responses will be made at the time of the request or within ten (10) days, excluding Saturdays, Sundays and Holidays.

Responses will be in writing, on the MGDPA Request Form submitted. If the responsible authority or the designee denies the request for data, the specific legal authority including the statutory section must be given.

**C. Fees.** Fees will be charged according to the policy attached hereto as Exhibit 3.

#### **IV. Data on Individuals.**

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

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

*Public* information about an individual may be shown or given to anyone.

*Private* information about an individual may not be shown or given to the public, but may be shown or given to:

- The individual, but only once every six months, unless a dispute has arisen or additional data has been collected.
- A person who has been given access by the express written consent of the data subject. This consent must be on the Consent to Release Private Data form, attached as Exhibit 4, or a form reasonably similar.
- Data on customers of municipal utilities are private data on individuals or nonpublic data, but utility data may be released to charitable organizations when consent is given by the individual on the form attached as Exhibit 4A.
- People who are authorized access by the federal, state, or local law or court order.
- People about whom the individual was advised at the time the data was collected. A Tennessee Warning, attached as Exhibit 5, or a form reasonably similar, must be completed when information is requested.

- People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.

*Confidential* information may **not** be shown or given to the subject of the data, or to the public, but may be shown or given to:

- People who are authorized access by federal, state, or local law or court order.
- People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.

**B. Request.** Any individual may request, in writing, to know if the City has stored data about that individual and whether the data is classified as public, private, or confidential. The individual must be shown public or private data without charge, and can request an explanation of the content and the meaning of the data.

**C. Identification of Requesting Party.** The responsible authority or designee must verify the identity of the requesting party as a person entitled to access of non-public data. 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, or other reasonable means.

**D. 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, unless classified as otherwise by Minnesota Statute or federal law. The responsible authority or designee will prepare summary data on private or confidential data upon request, if the request is in writing and the requesting party pays for the cost of preparation. Within ten (10) days of receiving a request for summary data, 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.

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.

**E. Juvenile Records.** The following applies to *private* (not confidential) data about people under the age of 18.

**Parental Access.** In addition to the people listed above who may have access to private data, a parent may have access to private information about a juvenile data subject. "Parent" means the parent or guardian of a juvenile data subject, or individual acting as a parent or guardian in the absence of a parent or guardian. The parent is presumed to have this right unless the responsible authority or designee has been given evidence that there is a state law, court order, or other legally binding document which prohibits this right.

**Notice to Juvenile.** Before requesting private data from juveniles, city personnel must notify the juveniles that they may request that the information not be given to their parent(s). A Tennessee Warning – Juvenile, attached hereto as Exhibit 6, or a form reasonably similar, must be completed when the information is requested.

**Denial of Parental Access.** The responsible authority or designee may deny parental access to private data when the juvenile requests this denial and the responsible authority or designee determines that withholding the data would be in the best interest of the juvenile. The request from the juvenile must be in writing stating the reasons for the request. In determining the best interest of the juvenile, the responsible authority or designee will consider:

- Whether the juvenile is of sufficient age and maturity to explain the reasons and understand the consequences,
- Whether denying access may protect the juvenile from physical or emotional harm,
- Whether there are reasonable grounds to support the juvenile's reasons, and
- Whether the data concerns medical, dental, or other health services provided under Minnesota Statutes Sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize the health of the minor.

The responsible authority or designee may also deny parental access without a request from the juvenile under Minnesota Statutes Section 144.335.

**V. Data Not on Individuals.**

Information not on individuals is classified by law as public, nonpublic, or protected nonpublic.

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

*Public* information that is not about an individual may be shown or given to anyone.

*Nonpublic* information that is not about an individual may not be shown or given to the public, but may be shown or given to:

- The subject of that data, if any.
- A person who has been given access by the express written consent of the data subject. This consent must be on the Consent to Release Private Data form, attached as Exhibit 4, or a form reasonably similar.
- People who are authorized access by the federal, state, or local law or court order.
- People about whom the data subject was advised at the time the data was collected. A Tennessee Warning, attached as Exhibit 5, or a form reasonably similar, must be completed when information is requested.
- People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.

*Protected Nonpublic* information that is not about an individual may not be shown or given to the subject of the data, or to the public, but may be shown or given to:

- People who are authorized access by federal, state, or local law or court order.
- People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.

**B. Request.** Any individual may make a request, in writing, for public data not on individuals.

**C. Identification of Requesting Party.** The responsible authority or designee must verify the identity of the requesting party as a person entitled to access of non-public data. 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, or other reasonable means.

## **VI. Data on Decedents.**

Information on decedents is classified as public, private, or confidential. Upon the death of a data subject, private data and confidential data become classified as private data on a decedent and confidential data on a decedent. Private data on a decedent and confidential data on a decedent become public ten (10) years after the individual's death and thirty (30) years after the creation of the data. There is a presumption of death if ninety (90) years has passed since the data was created or the persons birth, unless there is proof otherwise.

### **A. People entitled to Access.**

*Public* information about a decedent may be shown or given to anyone.

*Private* information about a decedent may not be shown or given to the public, but may be shown or given to:

- The representative of the decedent.
- A person who has been given access by the express written consent of the data subject. This consent must be on the Consent to Release Private Data form, attached as Exhibit 4, or a form reasonably similar.
- People who are authorized access by the federal, state, or local law or court order.
- People about whom the individual was advised at the time the data was collected. A Tennessee Warning, attached as Exhibit 5, or a form reasonably similar, must be completed when information is requested.
- People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.

*Confidential* information about a decedent may **not** be shown or given to the representative, or to the public, but may be shown or given to:

- People who are authorized access by federal, state, or local law or court order.
- People within the City staff, the City Council, and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.
- A trustee in cases of a wrongful death action.

**B. Request.** Any individual may make a request, in writing, for public data on decedents.

**C. Identification of Requesting Party.** The responsible authority or designee must verify the identity of the requesting party as a person entitled to access of non-public data. 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, or other reasonable means.

## **VII. 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, 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:

- the purpose and intended use of the requested data,
- whether the individual may refuse or is legally required to supply the requested data,
- any known consequences from supplying or refusing to supply the information, and
- 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 which requests the private or confidential data. See attached Exhibit 5.

## **VIII. Complaints**

An individual may file a complaint alleging a violation of the MGDPA with the district court pursuant to Minnesota Statutes 13.08, Subdivision 4 (2010), as it may be amended from time to time or with the Office of Administrative Hearings pursuant to Minnesota Statutes Section 13.085 (2010), as it may be amended from time to time.

## **IX. Challenges to Data Accuracy.**



An individual who is the subject of public or private data may contest the accuracy or completeness of that data maintained by the City. The individual must notify the City's responsible authority in writing describing the nature of the disagreement. Within 30 days, the responsible authority or designee must respond and either (1) 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 individual, or (2) notify the individual that the authority believes the data to be correct.

An individual who is dissatisfied with the responsible authority's action may appeal to the Commissioners 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.

**X. Data Protection.**

**A. Accuracy and Currency of Data.**

All employees will be requested, and given appropriate forms, to provide updated personal information to the appropriate supervisor, City Administrator, or Finance Director, which is necessary for tax, insurance, emergency notification, and other personnel purposes. Other people who provide private or confidential information will also be encouraged to provide updated information when appropriate.

Department heads should periodically review forms used to collect data on individuals to delete items that are not necessary and to clarify items that may be ambiguous.

All records must be disposed of according to the City's records retention schedule.

**B. Data Safeguards.**

Private and confidential information will be stored in files or databases which are not readily accessible to individuals who do not have authorized access and which will be secured during hours when the offices are closed.

Private and confidential data must be kept only in City offices, except when necessary for City business.

Only those employees whose job responsibilities require them to have access will be allowed access to files and records that contain private or confidential information. These employees will be instructed to:

- not discuss, disclose, or otherwise release private or confidential data to City employees whose job responsibilities do not require access to the

data,

- not leave private or confidential data where non-authorized individuals might see it, and
- shred private or confidential data before discarding.

When a contract with an outside party requires access to private or confidential information, the contracting party will be required to use and disseminate the information consistent with the MGDPA. The City may include in a written contract the language contained in Exhibit 7.

*Revised 08/11*

EXHIBIT 1

None

## EXHIBIT 2

CITY OF TWO HARBORS  
 INFORMATION DISCLOSURE REQUEST FORM  
 Minnesota Government Data Practices Act

**C. Completed by Requester**

REQUESTER NAME (Last, First, M):	DATE OF REQUEST:
STREET ADDRESS: NUMBER:	PHONE
CITY, STATE, ZIP CODE:	SIGNATURE:
DESCRIPTION OF THE INFORMATION REQUESTED:	

**D. Completed by Department**

DEPARTMENT NAME:	HANDLED BY:
INFORMATION CLASSIFIED AS:  <input type="checkbox"/> PUBLIC  <input type="checkbox"/> PRIVATE  <input type="checkbox"/> CONFIDENTIAL	ACTION:  <input type="checkbox"/> NON-PUBLIC  <input type="checkbox"/> APPROVED <input type="checkbox"/> PROTECTED NON-PUBLIC  <input type="checkbox"/> APPROVED IN PART  <input type="checkbox"/> DENIED
REMARKS OR BASIS FOR DENIAL INCLUDING STATUTE SECTION:	
PHOTOCOPYING CHARGES:  <input type="checkbox"/> None	Identity verified for private information:  <input type="checkbox"/> IDENTIFICATION: DRIVERS

_____ PAGES X _____ CENTS = _____  _____ SPECIAL RATE _____ (attach explanation)  _____ OTHER: _____	LICENSE, STATE ID, ETC.  _____ COMPARISON WITH SIGNATURE ON FILE _____ PERSONAL KNOWLEDGE
AUTHORIZED SIGNATURE: _____	
DATE: _____	

*\* The information that you are asked to provide is classified by state law as public. Our purpose and intended use of this information is to consider your request. You are not legally required to provide this information. You may refuse to provide this information. If you do not provide the requested information we will not be able to contact you to let you know when the response to your request has been completed. Other persons or entities may be authorized by law to receive this information.*

EXHIBIT 3



Policy for Fees for Providing Copies of Public Government Data  
Effective August 1, 2005

This document is intended to guide government entities in determining an appropriate fee for providing copies of public government data when the requester is not the subject of the data *and* the copy fee is not established specifically by statute.

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 responsible authority for the government entity *may* require the requester to pay a fee. Amendments to section 13.03 in 2005 require entities to calculate any fee that is charged by using *one* of the two methods below. (Minnesota Session Laws 2005, Chapter 163, section 8, effective August 1, 2005.) Regardless of which method is used, the entity may not charge for separating public data from not public data.

Fee Calculation Method I

If 100 or fewer pages of black and white, letter or legal size paper copies are requested, the entity may charge a per-page fee of not more than 25 cents for each page copied (50 cents for a two-sided copy). The entity is authorized to charge *only* the per-page fee and *cannot* require the requester to pay *any* of the costs listed in Fee Calculation Method II. This provision should not be interpreted to permit division of a single request into requests for copies of fewer than 100 pages in order to avoid charging a fee based on the actual costs of providing copies.

Exceptions:

The entity may require the requester to pay the actual costs of providing a copy of data in a format or program than is different from how the City stores the data.

The entity may require the requester to pay the actual costs of making and certifying copies of individual data and data that has commercial value.

All fees must be paid prior to the data being released to the requestor.

Fee Calculation Method II

If 101 or more pages of black and white, letter or legal size paper copies are requested, the entity may require the requester to pay the actual costs of *searching* for and *retrieving* the data, including the cost of employee time, and for *making, certifying, compiling* and *electronically transmitting* copies of the data or the data themselves.

Additional criteria for determining copy costs using Method II are set forth at Minnesota Rules, part 1205.0300, subpart 4. The entity may not charge a minimum fee.

Certain advisory opinions, issued pursuant to Minnesota Statutes, section 13.072, have established the following criteria for determining copy costs using Method II. (See the opinion index on IPAD's website; specifically, the topical index category, Copy costs.)

The City may require a deposit of \$500.00 on all requests that the Responsible Authority determines will be over 100 pages. Such deposit shall be made prior to the City compiling the data. If this amount is in excess of the actual costs incurred by the City then the excess amount shall be returned when the data is released to the requestor. If this amount is less than the actual amount incurred by the City then the additional amount will be required to be paid before the data is released to the requestor.

**A. Costs that *may be included as long as they are reasonable*:**

◆ 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
- Copy documents

*Notes:* The entity may not assess a fee for labor costs (wages/salary plus benefits) that exceed those of the lowest-paid employee who could complete the task(s) performed. The requirement that data be kept in a manner that makes them easily accessible for convenient use may limit the entity in charging for staff time.

- ◆ Materials (paper, copier ink, staples, magnetic tapes, 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. *Note:* Computerized data must be kept in a manner that makes the data easily accessible for convenient use.
- ◆ 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 an unusually large number of copies

**B. Costs that *may not* be included:**

- ◆ Purchase or rental of copier
- ◆ Maintenance of copier
- ◆ Normal operating expenses of computer/copier, including electricity used, and machine wear/tear
- ◆ Depreciation of copier
- ◆ Staff time required to:
  - Separate public 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 requester (i.e., explain content and meaning of data)
  - Prepare data for mailing
  - Prepare cover letter, fax sheet or invoice for copies
  - Credit payment and perform other associated accounting functions

*Note:* The entity may not assess a fee for labor costs (wages/salary plus benefits) that exceed those of the lowest-paid employee who could complete the task(s) performed

- ◆ Administrative costs that are not related to copying
- ◆ Records storage
- ◆ Sales tax
- ◆ The entire cost of operating a multi-tasked computer for a measured unit of time, when fulfilling a request for copies was only one of the tasks performed during that unit of time
  - ◆ Costs incurred because data are not maintained in a manner that makes them easily accessible for convenient use
- ◆ Search and retrieval costs when data are inspected but no copies are requested

EXHIBIT 4

CONSENT TO RELEASE PRIVATE DATA

I, \_\_\_\_\_, authorize the City of Two Harbors ("City") to release the following private data about me:

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

to the following person or entity:

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

The person or entity receiving the private data may use it only for the following purpose or \_\_\_\_\_ purposes:

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

This authorization is dated \_\_\_\_\_ and expires on \_\_\_\_\_.

The expiration cannot exceed one year from the date of the authorization, except in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

**I agree to give up and waive all claims that I might have against the City, its agents and employees or releasing data pursuant to this consent.**

The undersigned has read this form and understands it.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature and Title (if signing on behalf of an entity)

IDENTITY VERIFIED BY:

- Witness: \_\_\_\_\_
  - Identification Driver's License, State ID, Passport,  
other: \_\_\_\_\_
  - Comparison with signature on file
  - Other: \_\_\_\_\_
- Responsible
- Authority/Designee: \_\_\_\_\_

EXHIBIT 4A

CONSENT TO RELEASE PRIVATE DATA TO CHARITABLE ORGANIZATIONS

I, \_\_\_\_\_, authorize the City of Two Harbors ("City") to release the following private data about me: municipal utility data.

To the following person or entity: any charitable organization.

The person or entity receiving the private data may use it only for the following purpose or purposes: to assist in the payment of municipal utility bills.

This authorization is valid for one year from the date of the authorization, and may be revoked by the individual at any time.

I agree to give up and waive all claims that I might have against the City, its agents and employees for releasing data pursuant to this consent.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

---

IDENTITY VERIFIED BY:

- Witness: \_\_\_\_\_
- Identification Driver's License, State ID, Passport,  
other: \_\_\_\_\_
- Comparison with signature on file
- Other: \_\_\_\_\_

Responsible  
Authority/Designee: \_\_\_\_\_



EXHIBIT 5

TENNESSEN WARNING  
Data Practices Advisory

The information that you are asked to provide is classified by state law as either public, private or confidential. Public data is information that can be given to the public. Private data is information that generally cannot be given to the public but can be given to the subject of the data. Confidential data is information that generally cannot be given to either the public or the subject of the data.

Our purpose and intended use of this information is to consider: \_\_\_\_\_  
\_\_\_\_\_.

You are not legally required to provide this information.

You may refuse to provide this information.

The consequences of supplying or refusing to supply data are that your request or application may not be considered or it may be denied.

Other persons or entities may be authorized by law to receive this information. The identity of those persons or entities, if known, are as follows: \_\_\_\_\_  
\_\_\_\_\_.

The undersigned has read this advisory and understands it.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature and Title (if signing on behalf of an entity)

EXHIBIT 6

TENNESSEN WARNING - JUVENILE  
Data Practices Advisory

The information that you are asked to provide is classified by state law as either public, private or confidential. Public data is information that can be given to the public. Private data is information that generally cannot be given to the public but can be given to the subject of the data. Confidential data is information that generally cannot be given to either the public or the subject of the data.

Our purpose and intended use of this information is to consider: \_\_\_\_\_  
\_\_\_\_\_.

You are not legally required to provide this information.

You may refuse to provide this information.

The consequences of supplying or refusing to supply data are that your request or application may not be considered or it may be denied.

Other persons or entities may be authorized by law to receive this information. The identity of those persons or entities, if known, are as follows: \_\_\_\_\_  
\_\_\_\_\_.

If you are providing private data, you may request that the private data not be released to your parent or guardian. Please state any such request here: \_\_\_\_\_  
\_\_\_\_\_.

The undersigned has read this advisory and understands it.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature and Title

EXHIBIT 7

## SAMPLE CONTRACT PROVISION

Data Practices Compliance. Contractor will have access to data collected or maintained by the City to the extent necessary to perform Contractor's obligations under this contract. Contractor agrees to maintain all data obtained from the City in the same manner as the City is required under the Minnesota Government Data Practices Act, Minn. Stat. Chap. 13 (the "MGDPA"). Contractor will not release or disclose the contents of data classified as not public to any person except at the written direction of the City. Contractor agrees to defend and indemnify the City from any claim, liability, damage or loss asserted against the City as a result of Contractor's failure to comply with the requirements of the Act or this contract. Upon termination of this contract, Contractor agrees to return data to the City, as requested by the City.