

CITY OF MORGANTOWN PUBLIC RECORDS REQUEST REGULATIONS

Section 1. General

1.1 Purpose. – The purpose of these regulations is to adopt a procedure for the implementation of the West Virginia Freedom of Information Act (“FOIA”) by establishing reasonable rules and regulations related to the submission and processing of requests for public records, protecting the integrity of public records, and preventing interference with the regular discharge of the duties of custodians of the public records.

1.2 Authority. – City of Morgantown Ordinance No. **2015-25**

1.3 Scope. - This procedure shall apply to all departments, boards, commissions, and authorities of the City of Morgantown (“City”), including the employees and officers thereof, except the Morgantown Utility Board.

1.4 Effective Date. – **September 4, 2018**

Section 2. Procedure for Submitting a Public Records Request

2.1 Requests must be submitted in writing, either in person, by United States mail, or by email. All requests must include the full legal name and mailing address of the person making the request, as well as any organization or party represented by the person making the request. The City Manager, as the appointed official charged with administering the City’s operations, is designated the records custodian for FOIA purposes.

2.2 For efficient and timely processing, requests shall be submitted to the City as follows:

United States Mail: Records Custodian
 City of Morgantown
 389 Spruce Street
 Morgantown, WV 26505

Email: foia@morgantownwv.gov

2.3 All requests shall state with specificity the information being requested so that unreasonable effort is not required to search, locate, review, or process records. When possible, the request should provide the following specific information:

- (i) identity of the individual(s) who prepared or received the record;
- (ii) the time period during which the record was prepared or received; and
- (iii) the City department, board, commission, or authority from which the record is requested.

2.4 Requests may not include questions requiring a narrative response. Only requests specifically identifying the information sought and capable of producing responsive public records will be accepted.

Section 3. Procedure for Processing a Public Records Request

3.1 Receiving a public records request – Any employee or officer¹ of the City who receives a public records request must forward the request to the City Manager or to the individual the City Manager has currently designated as the FOIA Officer for the City, except as follows:

- (a) requests for reports routinely prepared by the Morgantown Police Department will be delivered to the Morgantown Police Department Records Custodian for processing in accordance with these Regulations;
- (b) requests for reports routinely prepared by the Morgantown Fire Department will be delivered to the Morgantown Fire Department Records Custodian for processing in accordance with these Regulations;
- (c) the individuals identified in the preceding paragraphs (a) and (b) shall perform all functions of the FOIA Officer under these regulations with respect to requests referred to those individuals, including data collection and reporting functions.

3.2 Upon receipt of a request, the FOIA Officer will review and determine a reasonable plan to respond to the request; this review shall, among other things, consider whether the request seeks public records and whether the request is reasonably specific.

3.3 City employees and officers shall, upon request of the FOIA Officer, identify and locate potentially responsive public records. All potentially responsive public records that are identified and located must be sent to the FOIA Officer in accordance with any instructions given by the FOIA Officer.

3.4 The FOIA Officer or designee shall review all potentially responsive public records prior to the release of any documents pursuant to a FOIA request.

3.5 Responding to a public records request – Within five business days after receiving an appropriately specific request for public records delivered to the Records Custodian, the City will take one or more of the following actions:

- (a) furnish copies of the requested public records;
- (b) advise the person making the request of the time and place at which responsive public records will be provided or may be inspected and designated for copying;
- (c) deny the request, in whole or in part, stating in writing the reasons for the denial;
- (d) request clarification of the request

¹ This obligation of City employees and officers shall not abrogate the duty of any individual requesting public records to submit the request directly to the records custodian as prescribed by the West Virginia Freedom of Information Act and implemented by these Regulations.

3.6 For the purposes of these regulations, the five business day response period shall begin on the first business day after the request is received. A request is deemed received on the day it is delivered to the Records Custodian as prescribed by these regulations during normal business hours (8:00 a.m. to 5:00 p.m.). Any request delivered to the Records Custodian after normal business hours shall be deemed received on the following business day.

3.7 The FOIA Officer will remove or redact information that is not responsive to the request or exempt from disclosure by FOIA or other applicable law, rule or privilege. The FOIA Officer will only produce records in a format that permits the required removal or redaction of exempt information. The City reserves the right to provide records by any means that will minimize the expenditure of employee time in search, review, tracking, and/or production of records.

3.8 FOIA does not require the creation of public records, narrative responses to questions, or, in most circumstances, the retrieval of documents not already maintained by the City. Responses to public records requests will be limited to public records in the possession or control of the City, as prescribed by applicable law.

3.9 Ending a public records request – Every response to a public records request that has been concluded will clearly state that the responsibility of the Records Custodian is at an end.

3.10 Retention of information – Any individual responding to a request governed by FOIA shall identify and maintain the following information regarding each request:

- (a) Request date
- (b) Completion date
- (c) Fee charged
- (d) Requester organization
- (e) Requester first name
- (f) Requester last name
- (g) Subject of request
- (h) Resolution of request

3.11 Submission to the West Virginia Secretary of State – The FOIA Officer will comply with applicable rules and related procedures established by the West Virginia Secretary of State requiring the submission of information related to FOIA requests.

Section 4. Fees

4.1 Each individual making a request for public records shall be responsible for paying all charges prescribed by the applicable City of Morgantown ordinance and permitted by FOIA.

4.2 All fees shall be paid to the City prior to the release of the public records, unless otherwise provided for by the FOIA Officer in his or her discretion. Fees shall be paid by the individual making the request in the manner directed by the FOIA Officer.

4.3 Fees charged are reasonably calculated to reimburse the City for its actual cost in making reproductions of records. Some requests may require the City to engage a third party vendor to reproduce requested records. Examples of such requests include, but are not limited to, requests for searches of email records, requests for large documents such as construction plan sheets, and requests covering an extended time period or multiple departments. If the City determines it is necessary to engage a third party vendor to provide responsive documents, the requestor shall pay the actual cost of the vendor services. **Requests for electronic records commonly dictate the collection of large data sets by the use of technical expertise and also require individual review of each record generated, functions which exceed the ordinary responsibilities of City staff. Requests for electronic records that either (a) return more than 500 results at the initial collection of records, or (b) require the search of electronic records for particular subject matter, words, or phrases will be handled by a third-party vendor at the requesting party's cost unless a waiver is granted for a given request.**

4.4 For requests that will require payment of costs, the FOIA Officer may require the requestor to pay a deposit in an amount up to and including the full amount of the total estimated or quoted costs of producing the records, before proceeding with the request.

Section 5. Administration

5.1 To the extent not already expressly stated in these regulations, the FOIA Officer shall have sufficient latitude and authority to implement any reasonable measures necessary for the fair and efficient administration of this procedure and compliance with the City's FOIA obligations. Minor deviations from the prescribed procedures are acceptable as long as those deviations are not materially harmful to the purpose of the procedure.

Adopted: August 29, 2018



Paul J. Brake, ICMA-CM, CEcD
City Manager