

The City of Morgantown
West Virginia

Freedom of Information Act Policy

1. Purpose and Scope. This Freedom of Information Act Policy (the “Policy”) is adopted by the City of Morgantown (“City”) to make reasonable rules and regulations necessary for the protection of the City’s public records and to prevent interference with the regular discharge of duties by public officials and employees. The Policy applies to all requests for public records of the City. The City Manager is the chief administrative officer of the City and is designated the Custodian consistent with the definitions in this Policy.

2. Authority. The Policy is adopted in accordance with the West Virginia Freedom of Information Act, West Virginia Code Chapter 29B, Article 1 (“WVFOIA”).

3. Definitions. The terms in this Policy shall have the same meanings as provided in WVFOIA except as this Policy specifically provides otherwise. The following terms shall have the meanings given:

Custodian means the elected or appointed official charged with administering a public body.

Person includes any natural person, corporation, partnership, firm or association

Public Record means any writing containing information prepared or received by the City, the content or context of which, judged either by content or context, relates to the conduct of the public's business.

Request means a request for a Public Record submitted in the form and by the method required by this Policy.

Writing includes any books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristic.

4. Submitting a Request.

a. WVFOIA Request Form. A Request for Public Record must be submitted to the Custodian by completing the City’s WVFOIA Request Form (**Exhibit 1**) and delivering it by email to foia@morgantownwv.gov or by United States mail, postage prepaid, to City of Morgantown, c/o City Manager, Custodian of Public Records, 430 Spruce Street, Morgantown, WV 26505.

b. Minimum Requirements for Request. The City may accept requests made without using the WVFOIA Request Form, but it is not obligated to do so, and the City’s duty to respond to a Request under WVFOIA does not begin until proper delivery of a WVFOIA Request Form is made in accordance with this Policy. The City will not accept or process any request that does not meet all of the following requirements: (i) prepared in writing; (ii) include the legal name of the person making the request; (iii) if the person making the request is not a natural person, include an individual who can be contacted regarding the request; (iv) include a

valid email address for the person making the request so that the City's response may be delivered by email; (v) include a valid mailing address for the person making the request so that the City's response may be delivered by mail; (vi) identify the person(s) who prepared or received the record(s) and each department of the City from which the record(s) is/are requested; and (vii) identify the time period during which the record(s) was/were prepared or received.

c. Limitations. Requests may not include questions seeking a narrative response. Only requests specifically identifying the Record requested and capable of producing responsive public records will be accepted. In order to serve the purpose of this Policy and WVFOIA preventing interference with the regular discharge of duties by public officials and employees, Requests that would impose an unreasonably high burden on public resources or expense of public funds will not be accepted.

5. Responding to a Request.

a. Any employee or officer of the City who receives a public records request must forward the request to the Custodian. This obligation of City employees and officers will not affect the duty of the person requesting public records to submit the request directly to the Custodian as required by WVFOIA and to follow these rules by submitting the WVFOIA Request Form.

b. After receipt of the request, the Custodian will review the request and, if the request is properly submitted, request that the City departments or individuals identified in the request conduct a reasonable search for responsive records. The identified individuals or departments will conduct a reasonable search of public records to respond to the request, and they should notify the Custodian if the search required would interfere with their regular duties, is overly burdensome, or may require an extended period of time.

c. The Custodian, or a designee, will provide a response to the request on behalf of the City within five business days after receiving a properly submitted request under this Policy, which will do one or more of the following:

- i. Furnish copies of the requested information
- ii. Advise the person making the request of the time and place at which the City anticipates that responsive public records can be provided or may be inspected and designated for copying [Note: Any anticipated date may be extended by the Custodian or designee as circumstances dictate]
- iii. Deny the request, in whole or in part, stating in writing the reason(s) for denial
- iv. Request clarification of the request

d. The five business day time period to respond to a request will begin on the first business day after the request is received. A request is deemed received on the business day it is delivered to the Custodian under this Policy during normal business hours (8:00 a.m. to 5:00 p.m.). Any request received after normal business hours is deemed received on the following business day.

e. The City may remove or redact information that is not responsive to a request or is exempt from disclosure by WVFOIA or other applicable law, rule, regulation, or privilege. The City is not required to collect or produce any non-public record as defined or interpreted in accordance with WVFOIA. The City will generally provide records by any means it determines

will minimize the expenditure of time involve in search, collection, review, tracking, and/or furnishing of records, and it may choose to produce records in a format that ensures information can be efficiently removed or redacted in accordance with this Policy or applicable law, rule, regulation, or privilege.

f. WVFOIA does not require creation of public records, narrative responses to questions, or, in most circumstances, retrieval of records not already maintained by the City or that are already available to the person making a request. Responses to requests under this Policy will be limited to public records in the possession or control of the City, as prescribed by applicable law.

g. When any request is denied, the City will notify the person making the request of the denial, state that its responsibility in handling the request is complete, and notify the person making the request that they may seek declaratory or injunctive relief in the Circuit Court of Monongalia County, West Virginia. The City may include this notice even when it is not denying a request.

h. Retention of information for reporting: The Custodia will identify and maintain the following information for the purpose of making reports regarding public records requests to the West Virginia Secretary of State as required by law: (1) request date, (2) completion date, (3) fee charged, (4) requester organization, (5) requester first name, (6) requester last name, (7) subject of request, (8) resolution of request.

i. Reporting to West Virginia Secretary of State: The Custodian will comply with applicable rules and related procedures established by the West Virginia Secretary of State requiring the submission of information related to requests under WVFOIA.

6. Fees.

a. Each individual making a request for public records shall be responsible for paying all charges prescribed by the applicable City of Morgantown ordinance, rule, regulation, or schedule.

b. All fees shall be paid to the City prior to the release of records, unless otherwise permitted by the Custodian in their discretion. Fees shall be paid by the individual making the request to the City as directed by the Custodian.

c. 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 or other electronic 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.**

d. For requests that will require payment of costs, the Custodian may require the person making the request to submit a deposit in an amount up to the full expected amount of the total cost of producing the records, before proceeding with the request.

e. Any person may request a waiver of fees by using the WVFOIA Request Form identified in this Policy, but the City is not obligated to grant any request for waiver of fees.

7. Administration. The Custodian is responsible for interpreting and applying this Policy and may adopt any related policies, rules, or guidance helpful to accomplishing those responsibilities. The Custodian may perform duties or responsibilities under this Policy directly or by a designee or multiple designees that the Custodian may designate from time to time in their discretion.

Adopted this 10th day of Nov., 2024:


A. Kim Haws, City Manager
The City of Morgantown, West Virginia

EXHIBIT 1
Freedom of Information Request Form

Instructions: Complete this form by following the FOIA Policy. All items must be completed in order to submit a request under the FOIA Policy. File the completed request by mail or in person at: City of Morgantown, c/o City Manager, Custodian of Public Records, 430 Spruce Street, Morgantown, WV 26505.

Requester's Full Name: _____

Requester's Telephone Number: _____

Requester's Mailing Address: _____

Requester's Email Address: _____

If you represent an organization, identify the organization name and business address: _____

Describe the records you are requesting: _____

Time period to be searched: _____

Person(s) and/or Department(s) in possession of the records: _____

If you request a fee waiver, state the reason for your request: _____
