

AN ORDINANCE OF THE CITY OF CLARKSBURG TO CREATE ARTICLE 117.03 TO SET FORTH PROCEDURES FOR THE SUBMISSION OF FREEDOM OF INFORMATION ACT (FOIA) REQUESTS AND REPEAL SECTION 770.06

WHEREAS, the City of Clarksburg is committed to ensuring requests pursuant to the West Virginia Freedom of Information Act (FOIA) are timely reviewed and responses timely provided in accordance with West Virginia Code § 29B-1-1.

WHEREAS, the City of Clarksburg currently has a procedure for such requests set forth on its website but desires to reduce such procedure to an ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AS FOLLOWS:

Section 770.06 COSTS ASSESSED FOR REPRODUCTION OR COPYING OF RECORDS is hereby REPEALED in its entirety.

In its place, the following is hereby created:

ARTICLE 117.03. FREEDOM OF INFORMATION ACT (FOIA) REQUEST POLICY

(a) Submission of FOIA requests:

(1) FOIA requests submitted to the City of Clarksburg shall be in writing and sent to [foia@cityofclarksburgwv.com](mailto:foia@cityofclarksburgwv.com) for response. Requests do not have to explain the reason for the request, or the expected use of the records requested. All requests to the City for records will be treated as FOIA requests. On its website, the City shall include this Policy and information on where to send a request.

(2) Although requests by email are preferred, the City will also accept requests by U.S. Mail or hand delivery. Email and mailing information for FOIA requests is as follows:

U.S. Mail: City Clerk  
Clarksburg City Hall  
222 W Main Street  
Clarksburg, WV 26301

Email: [FOIA@cityofclarksburgwv.com](mailto:FOIA@cityofclarksburgwv.com)

(3) Requests should contain (i) the name of the requesting party; (ii) an email or phone number; and (iii) a request for public records stating with reasonable specificity the information sought. The Requester should further state if the City should respond by email, U.S. mail or similar mechanism, or hand delivery to be picked up by the Requester at City Hall.

(b) Records that may be obtained:

(1) Public records as set forth in West Virginia Code Chapter 29B, Article 1.

(2) The City is not required to create records or to answer questions. Requests must seek existing records for which the City Of Clarksburg is the custodian with reasonable specificity so that the City may easily determine which records are sought. The City may ask questions of the requester to clarify the request.

(3) The City Of Clarksburg shall not provide records or data it maintains on behalf of another governmental entity; the request must be made to the governmental entity that is the custodian of those records or data. If the City Of Clarksburg is not the “custodian” of the public record requested, it will make an effort to notify the requester of a possible custodian.

(4) If the City determines preparing and providing a response is unduly burdensome, the City will notify the requester and ask the requester to narrow or reduce the request. If the request remains unduly burdensome, the City will issue a written statement explaining the reasons why it is not providing the records, in whole or in part.

(A) If a requester asks to inspect available records, a mutually acceptable date and time will be set for inspection at the City offices. City staff will remain with the records during any inspection. Hours for inspection of records will be during the hours of 9:00 am through 4:00 pm on regular business days. No fees will be assessed for requests to view records.

(B) The City reserves the right to assert any exemption allowed by law. If a record requested contains information exempt from disclosure under the FOIA, the City shall attempt to redact the exempt information. If an entire record is exempt from disclosure, the City will deny the request. The City will state the reason for any denial in its response. If the City is not the custodian of a record requested, the City shall deny the request and then attempt to provide information to assist the requester in locating the records.

(c) Fees:

(1) There are no fees to submit a FOIA request or to request records normally distributed to the public by the City, e.g., reports on the City website.

(2) The following fees are charged by the City for providing records:

- (i) Black and White Copies: \$1.00 per page
- (ii) Color Copies: \$2.00 per page
- (iii) \$10 flat fee for documents produced on flash drive
- (iv) For maps, large scale printing:
  - a. 8” x 11” - \$15.00
  - b. 11”x 17” - \$30.00
  - c. 24”x 36” - \$40.00
  - d. 36” x 48” - \$60.00
- (v) Postage and/or Shipping if more than the Postage cost for a one (1) ounce envelope - Actual Cost

(3) If the fees for all of the records provided is less than \$5.00, the fees will be waived. Requesters will be informed of the fees prior to production of the records. Requesters should make checks payable to “City of Clarksburg” and send to City Hall, directed to the City Clerk. Fees must be paid in advance before the records will be produced, unless otherwise determined by the City Clerk. At his or her discretion, the City Clerk may waive any fees.

(d) Responses: Responses will be provided within five (5) city business days (day 1 is the city business day following the city business day the request is received). Within five (5) city business days, the City will provide the records requested (in whole or in part), deny the request (in whole or in part), and/or inform the requester that the records (in whole or in part) cannot be provided within the five (5) business days.

(e) Relief from Denial: If the requester believes the City has wrongfully denied the request, the requester may institute proceedings for injunctive or declaratory relief or otherwise seek redress in the Circuit Court of Harrison County, West Virginia.

(f) Requests from other government entities or law enforcement: The City will use its best effort to provide records requested by other government entities or law enforcement without charge.

PASSED by Council of the City of Clarksburg on FIRST READING on this 6th day of July, 2023.

PASSED by Council of the City of Clarksburg on SECOND AND FINAL READING, following a public hearing, on this 20th day of July, 2023.

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Mayor

ATTEST:

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ANNETTE M. WRIGHT  
CITY CLERK

APPROVED AS TO FORM

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RICHARD R. MARSH  
CITY ATTORNEY