

**TOWN OF DAGSBORO**  
**Policies & Procedures Regarding FOIA Requests**

**SECTION 1 – Purpose**

The purpose of this policy is to set forth the rules and procedures for responding to requests from the public for Public Records under Title 29, Chapter 100 of the Delaware Code, the State of Delaware Freedom of Information Act.

It is the intent of the Town of Dagsboro that public business be performed in an open and public manner so that the public shall be advised of the performance of officials and their decisions. In accordance with FOIA, the public has the right to “reasonable access” to public records. The Act provides that it is the responsibility of the public body to establish rules and regulations regarding access to public records as well as fees charged for copying of such records. It is the policy of the Town of Dagsboro that all employees shall comply with FOIA and all requests for information shall be processed in the manner prescribed below.

**SECTION 2 – Definitions**

**“Exempt”** - information determined by the FOIA Coordinator and/or Town Solicitor to constitute a record that shall not be deemed public in accordance with *29 Del.C. 10002(l)*

**“FOIA”** - the Freedom of Information Act as established pursuant to Title 29, Chapter 100 of the Delaware Code

**“FOIA Coordinator”** - the person designated by the Town Administrator to receive and process FOIA Requests

**“FOIA Request or Request”** - a request to inspect or copy Public Records pursuant to Chapter 29, Section 10003 of the Delaware Code and in accordance with the policy hereunder

**“FOIA Request Form”** - the form promulgated by the Office of the Attorney General upon which requests for Public Records may be made

**“Public Record”** - shall have the meaning set forth in 29 Del.C. §10002

**“Requesting Party”** - shall mean the party filing a FOIA Request

**“Town”** – the Town of Dagsboro

### **SECTION 3 – Records Request, Response Procedures and Access**

#### **A. Form of Request**

1. All FOIA Requests shall be made in writing to the TOWN in person, by email, or by fax in accordance with the provisions hereunder. FOIA Requests may be submitted using the FOIA Request Form promulgated by the Office of the Attorney General; provided, however, that any FOIA Request that otherwise conforms with the policy hereunder shall not be denied solely because the request is not on the proper form. Copies of the FOIA Request Form may be obtained from the TOWN website, or from the TOWN office.
2. All requests shall adequately describe the records sought in sufficient detail to enable the TOWN to locate such records with reasonable effort. The Requesting Party shall be as specific as possible when requesting records. To assist the TOWN in locating the requested records, the TOWN may request that the Requesting Party provide additional information known to the Requesting Party, such as the types of records, dates, parties to correspondence, and subject matter of the requested records.

#### **B. Method of Filing Request**

1. FOIA requests may be made by mail or in person to the FOIA Coordinator at The Town of Dagsboro, FOIA Coordinator, PO Box 420, Dagsboro, DE 19939
2. Email to [townadministrator@townofdagsboro.com](mailto:townadministrator@townofdagsboro.com)
3. Fax to FOIA Coordinator at (302) 732-3907

#### **C. FOIA Coordinator**

1. The TOWN shall designate a FOIA Coordinator, who shall serve as the point of contact for FOIA Requests and coordinate the TOWN response. The FOIA Coordinator shall be identified on the TOWN website. The FOIA Coordinator may designate other TOWN employees to perform specific duties and functions to complete said FOIA request.
2. The FOIA Coordinator, working in cooperation with other TOWN employees and representatives, shall make every reasonable effort to assist the Requesting Party in identifying the records being sought, and locating and providing the requested records.
3. The FOIA Coordinator will also work to foster cooperation between the TOWN and the Requesting Party.
4. The FOIA Coordinator for the Town of Dagsboro shall maintain a FOIA Request Document Log which shall include, at a minimum:
  - a. Requesting party's contact information;
  - b. Date the Town received the request;
  - c. Town's response deadline;
  - d. Date of the Town's response (including the reasons for any extension);
  - e. Names, contact information and dates of correspondence with individuals contacted in connection with requests;
  - f. Dates of review by the Town;
  - g. Names of individuals who conducted such reviews;
  - h. Whether documents were made available;
  - i. Amount of copying and/or administrative fees assessed;
  - j. Date of final disposition

#### **D. Response to Requests**

1. The TOWN shall respond to a FOIA Request within fifteen (15) business days after the receipt thereof, either by providing access to the requested records; denying access to the records or parts of them; or by advising that additional time is needed because the request is for voluminous records, requires legal advice, or a record is in storage or archived.
2. If access cannot be provided within fifteen (15) business days, the TOWN shall cite one of the reasons why more time is needed and provide a good-faith estimate of how much additional time is required to fulfill the request.
3. If the TOWN denies a request in whole or in part, the TOWN response shall indicate the reasons for the denial. The TOWN shall not be required to provide an index, or any other compilation, as to each record or part of a record denied.
4. The TOWN shall provide a cost estimate to the Requesting Party for the cost of providing the requested records. Upon receipt of the estimate, the Requesting Party may decide whether to proceed with, cancel or modify the request.

#### **E. Review by the TOWN**

1. Prior to disclosure, records will be reviewed by the TOWN to ensure that those records or portions of records deemed non-public may be removed pursuant to 29 Del. C. §10002(l) or any other applicable provision of law. In reviewing the records, all documents shall be considered Public Records unless subject to one of the exceptions set forth in 29 Del. C. §10002(l) or any other applicable provision of law. Nothing herein shall prohibit the TOWN from disclosing or permitting access to Public Records if the TOWN determines to disclose such records, except where such disclosure or access is otherwise prohibited by law or regulation.
2. If a department is not sure that a requested item is a “public record”, the request for documentation should be forwarded to the FOIA Coordinator for consultation with the Town Solicitor in determining if the requested documents are a “public record” and fall under the jurisdiction of the FOIA.

#### **F. Hours of Review**

1. The TOWN shall provide reasonable access for reviewing Public Records during regular business hours, Monday-Friday, 9:00am to 4:00pm, except when holidays occur.
2. If the requested record is not in active use and in storage, then an appointment shall be made for access.
3. If a requesting party wants to review original materials, a staff member may be assigned to monitor the review to insure that the integrity of all materials is maintained. A monitor may be required at other times at the discretion of the FOIA Coordinator or designee.

## **SECTION 4 – Fees**

### **A. Duplicating/Copying Fees**

1. In instances in which paper records are provided to the Requesting Party, photocopying fees shall be as follows:
  - a. **Standard Sized, Black and White Copies:** The charge for copying standard sized, black and white Public Records for copies shall be \$0.50 per sheet. This charge applies to copies on the following standard paper size: 8.5" x 11"
  - b. **Standard Sized, Color Copies:** The charge for copying standard sized, color Public Records for copies shall be \$1.50 per sheet. This charge applies to copies on the following standard paper size: 8.5" x 11"
  - c. **Oversized Copies/Printouts:** The charge for copying oversized Public Records shall be the actual costs incurred, including time to arrange printing by the TOWN and for the use of commercial printing vendors
  - d. A minimum fee of \$1.00 per request shall be charged for standard-sized copies. Two-sided copies shall be considered as two copies.
2. Adhesive Labels
  - a. The cost of printed black and white adhesive labels shall be \$0.25 per label
  - b. The cost of printed color adhesive labels shall be \$0.75 per label
3. Electronic Records
  - a. The charge for copying records in an electronic format shall be \$15.00 per CD

### **B. Administrative Fees**

The following are administrative fees for providing public records

1. Actual Labor Costs:

TOWN staff time utilized to fulfill a request for records shall be billed at an hourly rate commensurate with the lowest hourly pay rate of the Town Administrative Staff. Staff time charges will be billed to the requesting party per quarter hour. Staff time charges will be in addition to any duplicating/copying charges. Charges for actual staff time costs include:

  - a. Staff time associated with processing FOIA requests
  - b. Locating and reviewing files
  - c. Monitoring file reviews
  - d. Generating computer records (electronic or print-outs)
  - e. Any other time rendered by the employee in researching, examining, developing, duplicating, reviewing and separating exempt from non-exempt information that has been requested.
2. Other Costs:

Any other actual costs associated with fulfilling a request for information, such as postage, shall be at the expense of the requesting party. Administrative fees shall not include any cost associated with the TOWN'S legal review of whether any portion of the requested records is exempt from FOIA.

If the TOWN does not have the resources or equipment to duplicate requested records, the TOWN may arrange to have records duplicated by an outside contractor. In this instance, the requesting party will be responsible for payment of these costs.

The requesting party shall be provided an estimate of the costs involved to fulfill their request for information. Upon receipt of the estimate, the Requesting Party may decide whether to proceed with, cancel or modify the request. In providing access to public records, the FOIA Coordinator may take necessary and reasonable action to protect the TOWN'S public records and to prevent excessive and unreasonable interference with the discharge of the TOWN'S functions. This policy does not require the TOWN to make a compilation, summary or report of information.

**C. Payment**

1. Payment of all fees shall be due no later than the time the records are released to the Requesting Party.
2. The TOWN may require pre-payment of all fees prior to performing any services hereunder.

**D. Cancellation Fees/Appointment Rescheduling**

1. Requesting parties who withdraw the FOIA Request 24 hours after submittal may be subject to the charges incurred by the TOWN in preparing the requested records.
2. Requesting Parties who do not reschedule or cancel appointments to view files at least one full business day in advance of the appointment may be subject to the charges incurred by the TOWN in preparing the requested records.
3. The TOWN shall prepare an itemized invoice of these charges and provide the same to the Requesting Party for payment.

**SECTION 5 – Applicability**

To the extent any provision in this policy conflicts with any other applicable law or regulation, such law or regulation shall control, and the conflicting provision herein is expressly superseded.

**SECTION 6 – Exempt Records**

Those records that are deemed non-public are as contained in *29 Del.C. §10002(l)*.