

**MORGAN COUNTY QUALITY WATER DISTRICT'S POLICY AND PROCEDURES  
REGARDING ACCESS TO PUBLIC RECORDS PURSUANT TO THE COLORADO  
OPEN RECORDS ACT**

1. **POLICY**

It shall be the policy of the Morgan County Quality Water District (District") to make all public records available for public inspection at reasonable times in accordance with the Colorado Open Records Act ("the Act"), § 24-72-201, et seq., C.R.S.

2. **PURPOSE**

2.1 The primary purpose of this policy is to set forth general procedures for providing district-wide, consistent, prompt and equitable service to citizens requesting access to public records in accordance with the requirements of the Colorado Open Records Act.

The purpose of the Act is to facilitate an open and accessible government. The public has a right to know how its taxes are spent, and most documents in special taxing districts address the spending of taxpayers' funds in some way. The Act sets forth categories of documents to which the official custodian of records *shall allow* public access, documents to which the official custodian *shall deny* access, and documents to which the official custodian *may deny* access. If a court finds that denial of access to the document was arbitrary and capricious, the court may order that the District pay the applicant's court costs and attorney fees in an amount to be determined by the court.

2.2 The secondary purpose of this policy is to establish reasonable and consistent fees for providing copies as authorized by the Act and to recover a portion of the cost of staff time for responding to public records requests.

3. **SCOPE**

This policy shall apply to all District records and copies of information requested or released with the exception of records covered under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Privacy Rule Promulgated by the U.S. Department of Health and Human Services which interprets and implements HIPAA.

4. **DEFINITIONS**

The definitions found in § 24-72-202, C.R.S., as amended from time to time, shall apply unless the context clearly requires a different meaning

## 5. PROCEDURES

- 5.1 The General Manager is the official custodian of all records which are centrally maintained by the District. It is the responsibility of the General Manager to become familiar with and to educate his/her affected employees about the standards and requirements of this policy.
- 5.2 Citizens may make informal requests to the official custodian for copies of public records. The custodian will make reasonable efforts to fill such requests immediately, at most, within the time required by state statute (three days which can be extended by seven additional working days in extenuating circumstances per § 24-72-203(3)(b), C.R.S.). Any extensive request and any request requiring research or redaction of records shall be made in writing to the official custodian maintaining such records.
- 5.3 If the written request cannot be filled immediately, or if the records are otherwise not readily available at the time the request is made, the custodian will set a date and time for records inspection that is within three working days of the date on which the request was made. Such period may be extended if extenuating circumstances exist (per § 24-72-203(3)(b), C.R.S.), but the total time, including the extension period, will not exceed ten working days from the date on which the request was made.

## 6. CHARGES

- 6.1 Reasonable charges shall be made for any copies requested. Such charges shall be reflective of the actual costs of reproduction. The reproduction fee shall not exceed twenty-five cents per standard page for a copy of a public record, or a fee not to exceed the actual cost of providing a copy, printout, or photograph of a public record in a format other than a standard page. The District may also include nominal charges for staff time in locating requested documents and in returning them to their proper location after reproduction. Cost may vary from department to department and shall be set by department heads, subject to approval by the General Manager. The General Manager shall have authority to waive fees and charges in particular instances when such a waiver is deemed appropriate in the public interest.
- 6.2 Some requests for public records will require more extensive work by District staff. While the District has a clear obligation to provide public records and information, it cannot effectively serve as a research service for citizens without affecting its ability to provide normal and usual services. Therefore, the District may charge for staff time spent to respond to extraordinary requests, including without limitation, searching voluminous files for specific information, manipulating data, and redacting documents to excise confidential information.

6.2.1 The charge for research shall be \$35/hour. A time-log that describes the staff time spent responding to a request should be maintained for staff time in excess of one hour.

6.2.2 For large requests, a deposit of the estimated cost of copying and charges for staff time shall be collected before work begins. If actual charges are less than the deposit, the balance will be refunded, or, if actual charges are more than the deposit, the balance will be paid by the requestor. The time period for responding does not begin to run until the District receives the deposit.

6.3 The District does not charge for:

6.3.1 Requests from members of the Board of Directors, its boards and commissions, or other staff performing District business. Exception: The District will charge for election materials requested by incumbent officials who are running for office to ensure equal treatment of all candidates.

6.3.2 Election materials requested by any citizen except for reimbursement of costs incurred by the District in obtaining such materials when such records are maintained by other governmental entities.

6.3.3 Requests from other governmental agencies or from professional organizations to which the District as a whole pays membership dues, such as the Special District Association.

## 7. ACCESS DENIED

7.1 Access to public records may be denied in accordance with the provisions of the Act. Inspection of the following public records may not be permitted:

7.1.1 Items Protected by Law: If, upon consultation with the District's Attorney, it is determined that the document is privileged or prohibited from disclosure under any ordinance, state statute, federal statute, or regulation issued thereunder or is prohibited by rules promulgated by the order of any court. This includes items such as:

Personnel files, including social security numbers, home address and telephone numbers, and medical, psychological, and sociological data;

Scholastic achievement data;

Test questions and scoring keys;

Sexual harassment investigations;

Work product and drafts;

Deliberative process materials;<sup>1</sup>

Letters of reference;

Identities of applicants, except finalists for positions of the General Manager, Board of Directors, appointee applicants, and department and division heads;

Investigatory files compiled for any law enforcement purpose;

Real estate appraisals until the time that title passes to the District and

Trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data obtained by the District from any person.

Correspondence between the District, directors, and constituents where it is clear that there was an expectation of confidentiality.

- 7.1.2 Attorney/client and work product communications that convey legal advice: Communications to or from the District's Attorney or other special counsel representing the District and anyone within the District organization should not be released without the consent of the client.
- 7.1.3 Public Interest: If, in the opinion of the records custodian, disclosure of the contents of any public records would do substantial injury to the public interest, even though such record is otherwise available for public inspection under the provisions of this policy, the records custodian may deny access to such public records. If any public records are withheld pursuant to deliberative process privilege, the custodian shall provide the applicant with a sworn statement specifically describing each document withheld, explaining each document withheld, explaining why each such document is privileged, and why disclosure would cause substantial injury to the public interest.
- 7.1.4 Release decision: All of the above-mentioned categories of documents that are privileged or prohibited from disclosure may be released when there is a waiver submitted by the person of interest and after consultation and approval of the District's Attorney.

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<sup>1</sup>*Deliberative process material is defined as material so candid or personal that public disclosure is likely to stifle honest and frank discussion within the government*

8. CONSTRUCTION AND INTERPRETATION

Employees who have questions concerning the interpretation or application of this policy should be directed to the District's Attorney.

9. EXCEPTIONS/CHANGE

This policy supersedes all previous policies covering the same or similar topics. Exceptions to this policy may be granted only by the General Manager. This policy may be reviewed and changed at any time.

**Request for Information Pursuant to the Morgan County Quality Water District Policy and Procedures  
Regarding Access to Public Records Pursuant to the Colorado Open Records Act**

Date of Request \_\_\_\_\_ Time \_\_\_\_\_

Name of Requesting Party \_\_\_\_\_

Address \_\_\_\_\_ Email: \_\_\_\_\_

Telephone Number (during business hours) \_\_\_\_\_

Please select the format in which you would like to receive materials:

View only, no copies requested.

**Appropriate personnel will be scheduled to accompany you during viewing.**

Hard copies/printouts       CD\*       email\* (\*subject to availability)

DESCRIPTION OF RECORDS REQUESTED (be specific as possible, attach more sheets if necessary)

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

*By signing this request, the requesting party acknowledges the District may require payment of, including a deposit for, reasonable charges for copies requested and additional charges for staff time when research, data manipulation, redaction of confidential information or other work needed to comply with extraordinary requests. In responding to this request, the District will follow its written policy and the Procedures Regarding Access to Public Records Pursuant to the Colorado Open Records Act.*

Do you want the District to provide you an estimate of costs prior to your incurring such costs as a pre-condition to the District's processing your request? Yes \_\_\_\_\_ No \_\_\_\_\_

Signature of requesting party \_\_\_\_\_ date \_\_\_\_\_

**(Following to be completed by a District Representative)**

Delivery method \_\_\_\_\_ Date Received \_\_\_\_\_ Response date \_\_\_\_\_ Response time \_\_\_\_\_

Estimated: total copies _____ staff hours _____ Estimated charges: copies \$ _____ research \$ _____
TOTAL DEPOSIT REQUIRED \$ _____ DATE OF DEPOSIT _____ METHOD _____

Total copies _____ staff hours _____ Charges: copies \$ _____ research \$ _____
TOTAL AMOUNT PAID \$ _____ DATE OF PAYMENT _____ REFUND \$ _____

*In the event the District denies any request, evidence of such denial and the basis therefore will be provided in writing to the requesting party.*

District's Custodian of Records Signature \_\_\_\_\_ date \_\_\_\_\_