City of Elkins

Rules and Ordinances Committee Meeting

August 3, 2026
3:30 PM
Phil Gainer Community Center
142 Robert E Lee Ave. Ext.

Charter Authority of the Rules & Ordinances Committee: Consider and propose to Council new and amended ordinances, rules, and policies.

AGENDA

1. **Call to Order and Roll Call**
2. **Public Comment**
3. **Minutes**
   a. Proposed minutes for the meeting of May 4, 2026
4. **Reports**
5. **New Business**
   a. Electronic Communications and Mobile device Policy
   b. Revised FOIA Request protocol
   c. Discussion of Sidewalks in City Code (§ 93.025-034)
6. **Announcements**
7. **Adjournment**

CITY OF ELKINS
AGENDA ITEM REPORT

Meeting Date:	August 3, 2026
Section:	Minutes
Category:	Action Item
Agenda Item Name:	Proposed minutes for the meeting of May 4, 2026
Recommended By:	City Clerk
Summary:	Minutes proposed for the referenced meeting
Fiscal Impact:	n/a
Recommendation:	Consider for approval
Attachments:	1. Rules and Ordinances - 2026_05_04 - minutes_proposed

RULES AND ORDINANCES COMMITTEE
MEETING MINUTES

Phil Gainer Community Center
142 Robert E. Lee Ave. Ext.
May 4, 2026
3:30 p.m.

Present were members: N. Bross-Fregonara (chair), A. Carroll, & L. Severino.

Also present were: Jerry Marco (mayor), Gerry Roberts (city attorney, via Teams), Tracy Judy (treasurer), Steve Himes (fire chief), Jessie Kittle (Code Enforcement), Wes Lambert (Chief Water Operator, via Teams), Sutton Stokes (city clerk), and Mikayla Goins (executive secretary).

MINUTES

Severino **MOVED APPROVAL OF THE MINUTES FOR THE MEETING OF APRIL 20, 2026.** The motion carried.

NEW BUSINESS

a. Amend floodplain denial ordinance to establish a deadline

Stokes provided a summary of the proposed changes to the floodplain denial ordinance. Roberts provided historical and legal context to the subject.

Carroll **MOVED TO RECOMMEND COUNCIL APPROVAL OF THE AMENDMENT TO THE FLOODPLAIN ORDINANCE AS PRESENTED.** The motion carried.

b. City Media Policy, updated version

Stokes presented an updated version of the proposed policy and provided a summary.

Carroll **MOVED TO RECOMMEND COUNCIL APPROVAL OF THE CITY MEDIA POLICY AS PRESENTED.** The motion carried.

c. Proposal to require driving record check

Judy provided a report on communication with the city insurance representative. Roberts provided legal context for the policy

Severino **MOVED TO RECOMMEND COUNCIL APPROVAL OF DRIVING RECORD CHECK POLICY PENDING REVIEW BY HR DIRECTOR.** The motion carried.

The meeting adjourned at 3:55 p.m.

_____ _____

Name & Title Signature

CITY OF ELKINS
AGENDA ITEM REPORT

Meeting Date:	August 3, 2026
Section:	New Business
Category:	Action Item
Agenda Item Name:	Electronic Communications and Mobile device Policy
Recommended By:	City Clerk
Summary:	The Committee is asked to review a draft policy governing City-issued devices and electronic communications in connection with expanded email and text-message archiving. The policy establishes approved messaging methods, restricts applications that may circumvent records retention, clarifies City access and inspection rights, and provides flexibility for legitimate law-enforcement needs. Following review, the policy and employee acknowledgement will be finalized in coordination with HR and presented to the Personnel Committee.
Fiscal Impact:	n/a
Recommendation:	Review, provide feedback, and recommend next steps
Attachments:	1. Electronic device policy memo - 2026_07_31 2. Electronic messaging mobile device policy - 2026_07_31

MEMORANDUM

To: Rules & Ordinances Committee
From: City Clerk
Re: Electronic Communications and Mobile Device Policy
Date: July 31, 2026

Overview

The attached draft Electronic Communications and Mobile Device Policy establishes rules for use of City-issued devices and electronic communication systems, in the context of the City's implementation of more comprehensive retention and archiving of email and text-message communications.

Because we lack central control of City-issued devices and cannot turn off or block features or applications thereon, certain needed requirements must be imposed through policy directives from Council.

The objectives of this policy are to ensure that electronic communications concerning City business is conducted through channels that can be appropriately retained and retrieved; make users aware that communications on City systems may be archived, searched, reviewed, or disclosed; prohibit applications and features that circumvent those systems; and establish the City's authority to configure and inspect City-owned devices for legitimate administrative, legal, security, and compliance purposes.

Key Provisions

The draft would:

- Establish that City-issued devices, accounts, telephone numbers, and communication systems are City property or maintained for City business purposes, with no expectation of privacy concerning City business conducted through them.
- Require that electronic messaging for City business use approved and archivable methods, principally City email and standard SMS/MMS messaging.
- Restrict applications and features that may prevent reliable retention, including Signal, WhatsApp, Telegram, Snapchat, social-media direct messaging, disappearing messages, and similar services.
- Prohibit iMessage and similar enhanced messaging services for City business unless specifically authorized.
- Require cooperation with reasonable device inspection, configuration, and compliance-verification requests.
- Prohibit intentional disabling or circumvention of retention, security, or archiving functionality.

- Preserve the City's ability to implement mobile-device-management and other technical controls as needs evolve.

Police Department

Recognizing that the Police Department has unique requirements where electronic communications are concerned, including officer safety and protection of investigative sources and methods, the policy distinguishes law-enforcement needs from general administrative rules.

The policy expressly states that it is not intended to interfere with law-enforcement operations, investigative techniques, officer safety, or other public-safety activities. The Chief of Police may authorize otherwise restricted applications or technologies (e.g., Signal, Telegram, etc.) when reasonably necessary for investigative, operational, officer-safety, confidential-source, cybersecurity, intelligence, or similar purposes.

At the same time, ordinary Police Department administrative communications (including personnel, budgeting, purchasing, scheduling, and policy matters) should continue to use the City's normal approved and archivable channels to the extent practicable. The intent is to protect legitimate police operations without creating an unnecessarily broad exemption from City records-management requirements.

Personnel Policy and Acknowledgement

The final document will ultimately function as a personnel policy and be included in our Personnel Manual and its existing disciplinary procedures.

Implementation will also require a carefully drafted employee acknowledgement, prepared in collaboration with HR. This should document that each affected employee has been informed of and understands the rules concerning approved communication methods, records retention and archiving, device inspection and configuration, restricted applications, and expectations of privacy. The acknowledgement should explicitly advise officials and staff of the unique considerations when drafting written communications for a public agency, which is subject to broad records requests by members of the public.

Executed acknowledgements would be retained in personnel files. We may also need to determine and incorporate any additional affirmative consent or “opt-in” language required by AT&T or the City's archiving provider for carrier-level capture of SMS/MMS communications.

At this stage, the Committee is primarily being asked to review the policy framework and identify any substantive changes before the policy, acknowledgement, and implementation procedures are finalized. Review by the Personnel Committee is also anticipated.

##

City of Elkins

Electronic Communications and Mobile Device Policy

Purpose

The City of Elkins provides and maintains mobile devices, electronic communication systems, email accounts, and related technologies to support the efficient conduct of City business. The purpose of this policy is to:

- Promote effective communication;
- Ensure compliance with public records retention obligations;
- Support operational transparency and accountability;
- Reduce risk associated with unmanaged communications channels;
- Establish clear expectations regarding acceptable use of city communication systems and devices; and
- Support lawful retention, retrieval, and management of city communications and records.

This policy is intended to work in conjunction with the City's electronic communications retention and archiving systems, including systems utilized to retain and retrieve email and text message communications.

Nothing in this policy is intended to interfere with lawful law enforcement operations, investigative techniques, officer safety practices, or other legitimate public safety activities.

Scope

This policy applies to electronic communications as follows:

- All City-issued mobile phones, tablets, computers, and related devices;
- All city communication systems, email systems, and electronic communication accounts;
- All users of such systems, devices, or accounts, including employees and officials; and
- All electronic communications conducted using city-issued devices, city communication systems, or City accounts in connection with City business.

City Ownership and Retrieval

City-issued devices, City communication systems, City email accounts, associated telephone numbers, and communications conducted through such systems are City property or are maintained for City business purposes.

All messages created, sent, received, stored, or accessed using City-issued devices, City communication systems, or City accounts should be considered City information.

Users should understand:

- Communications conducted using City-issued devices, City communication systems, or City accounts may be retained, archived, reviewed, searched, exported, or disclosed;
- Communications may be subject to public records requests, litigation discovery, audits, investigations, or other lawful review;
- The City reserves the right to access and review communications or related records for legitimate governmental, operational, legal, security, or policy-compliance purposes;
- Deleted communications may remain recoverable through archives, backups, carrier records, synchronization systems, or other technologies;
- Draft, unsent, temporary, or partially composed communications may in some circumstances also be retained, recoverable, searchable, or subject to review or disclosure; and
- Users should not expect privacy regarding City business conducted using City-issued devices, City communication systems, or City accounts.

This includes:

- Text messages;
- Multimedia messages;
- Email communications;
- Attachments/images;
- Metadata; and
- Related records retained through City systems.

Approved Electronic Messaging Methods

When using electronic messaging to conduct City business, users shall use communication methods and systems approved by the City and compatible with applicable records retention, legal, and operational requirements.

Approved electronic messaging methods include:

- Standard SMS/MMS text messaging through approved messaging applications;
- City-approved email systems and applications; and
- Other electronic messaging methods specifically approved by the City.

Prohibited or Restricted Messaging Applications

To ensure compliance with the City's communications, records retention, legal, and operational requirements, City business shall not be conducted through:

- Signal;
- WhatsApp;
- Telegram;
- Snapchat;
- Facebook Messenger;
- Instagram direct messaging;
- Disappearing-message features;
- Encrypted or ephemeral messaging applications; or
- Other non-approved messaging applications or services.

Users shall not:

- Install or maintain non-approved messaging applications on City-issued devices absent authorization by the City;
- Enable disappearing-message functionality;
- Intentionally route City communications through unapproved applications; or
- Take actions intended to avoid retention or retrieval of communications.

The Chief of Police may authorize or approve the use of specific communication applications, services, or technologies by law enforcement personnel when reasonably necessary for operational, investigative, officer-safety, confidential-source, cybersecurity, intelligence, or other legitimate law enforcement purposes. Such authorization or approval may be general or case-specific and may include reasonable conditions or limitations established by the Chief.

To the extent practicable, communications among police department officers and staff relating primarily to City administrative business, including personnel matters, budgeting, purchasing, scheduling, policy development, and similar administrative functions, should continue to occur through approved communication methods subject to the City's retention requirements.

iMessage and Similar Services

To ensure compliance with the City's communications, records retention, and operational requirements, employees shall deactivate iMessage and similar enhanced messaging features for City business. These features may not be used for City business unless specifically authorized by the City.

Personal Use

Limited incidental personal use of City-issued devices or City communication systems may be permitted so long as such use:

- Does not interfere with City operations;
- Does not create excessive cost;
- Does not violate law or City policy; and
- Does not interfere with records retention, security, or device management requirements.

Users should understand that even incidental personal communication conducted using City-issued devices, City communication systems, or City accounts may potentially become subject to review or disclosure depending on the circumstances.

Records Retention and Public Records Requests

Electronic communications concerning City business may constitute public records under West Virginia law and may be retained pursuant to City policy and applicable records retention schedules.

Communications conducted using City-issued devices, City communication systems, or City accounts may be subject to:

- Public records requests;
- Litigation discovery;
- Subpoenas;

- Law enforcement requests;
- Audits; or
- Other lawful disclosure requirements.

Users should assume that:

- Emails, text messages, and related communications may later be retrieved;
- Communications may be reviewed by supervisors, legal counsel, records custodians, auditors, or courts; and
- Communications may become publicly disclosable unless exempt under applicable law.

Users are expected to communicate professionally and appropriately at all times when using City-issued devices, City communication systems, or City accounts.

Inspection and Compliance Verification

The City reserves the right to inspect, review, configure, or verify City-issued devices, City communication systems, and City accounts for purposes including:

- Policy compliance;
- Records retention compliance;
- Operational security;
- System maintenance;
- Legal compliance; or
- Investigation of suspected misconduct or policy violations.

Users shall cooperate with reasonable requests to present City-issued devices for inspection, configuration review, troubleshooting, or compliance verification.

User Responsibilities

Users of City-issued devices, City communication systems, or City accounts are responsible for:

- Complying with this policy;
- Cooperating with reasonable device or account configuration requirements;
- Promptly reporting lost or stolen devices or suspected account compromise;

- Avoiding use of unauthorized messaging platforms for city business; and
- Preserving city records in accordance with law and policy.

Users shall not:

- Disable required communications retention functionality;
- Intentionally interfere with retention, security, or archiving systems; or
- Refuse reasonable configuration or compliance requirements established by the city.

Future Technology and Management Controls

The City may implement additional mobile device management ("MDM"), communications governance, security, or archiving tools in the future to improve compliance, security, retention, and operational management capabilities.

The City reserves the right to modify device configurations, restrict applications or settings, implement additional technical controls, or otherwise manage City communication systems and accounts as operational or legal needs evolve.

Violations

Violation of this policy may result in:

- loss of device, account, or system privileges;
- disciplinary action;
- referral for legal review; or
- other action deemed appropriate by the City.

Questions

Questions regarding this policy or approved communications methods should be directed to the City Clerk or other designated administrative personnel.

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Acknowledgement and Opt-In

This policy will also require an acknowledgement form and/or "opt-in" document as may be required by AT&T.

CITY OF ELKINS
AGENDA ITEM REPORT

Meeting Date:	August 3, 2026
Section:	New Business
Category:	Action Item
Agenda Item Name:	Revised FOIA Request protocol
Recommended By:	City Clerk
Summary:	The Committee is asked to review a draft protocol establishing procedures for searching, reviewing, and producing records in response to FOIA requests. The protocol formalizes centralized coordination by the City Clerk, departmental search responsibilities, procedures for broad or complex requests, and retrieval of electronic records. It also establishes special procedures for Police Department records to protect investigative, confidentiality, and officer-safety interests while maintaining centralized responsibility for final FOIA responses. The protocol is intended to operate in parallel with the proposed Electronic Communications and Mobile Device Policy. The City's current FOIA Response Protocol, adopted in 2015, is attached for comparison.
Fiscal Impact:	n/a
Recommendation:	Review, provide feedback, and recommend next steps
Attachments:	1. FOIA Request Protocol_draft - 2026_07_31 - memo 2. FOIA Request Protocol_draft - 2026_07_31 3. FOIA Request Protocol_2015

MEMORANDUM

To: Rules & Ordinances Committee
From: City Clerk
Re: FOIA Response and Electronic Records Retrieval Protocol
Date: July 31, 2026

Overview

The attached draft protocol establishes procedures for identifying, searching, reviewing, and producing records in response to Freedom of Information Act requests. It formalizes the City Clerk's role as central public records custodian, departmental responsibilities for conducting and certifying searches, procedures for handling unusually broad requests, and standards for searching electronic records.

The protocol has been revised and is intended to operate in parallel with the proposed Electronic Communications and Mobile Device Policy. That policy addresses the employee side of electronic records management—requiring use of approved and archivable communication methods—while this protocol addresses how the City searches for, reviews, and produces those records when requested. The protocol also makes clear that City business conducted through non-City systems or devices may be more difficult to retrieve but puts users on notice that these records remain subject to applicable public-records and retention requirements.

Police Department Records

As with the Electronic Communications and Mobile Device Policy, special attention is given to Police Department operations. Police-controlled systems would generally be searched and initially reviewed by the Chief of Police or designee, preserving appropriate protections for investigations, confidential sources, officer safety, CJIS information, and similar sensitive material. The City Clerk would remain responsible for the City's final FOIA response, with consultation with the City Attorney as appropriate.

The Committee is asked to review the proposed framework and identify any substantive changes before the protocol proceeds toward final adoption.

##

FOIA RESPONSE AND ELECTRONIC RECORDS RETRIEVAL PROTOCOL

Purpose

The purpose of this Protocol is to establish procedures for identifying, searching, reviewing, and producing records in response to requests made pursuant to the West Virginia Freedom of Information Act. This Protocol is intended to ensure consistent handling of requests, protect confidential and exempt information, preserve appropriate departmental responsibilities, and facilitate timely responses to the public.

Public Records Custodian

For purposes of the West Virginia Freedom of Information Act, the City Clerk shall serve as the City's public records custodian and shall manage the City's response to requests submitted pursuant to the Act.

The City Clerk shall:

- Receive and track requests;
- Coordinate records searches;
- Establish response deadlines;
- Communicate with requesters;
- Maintain the city's central record of FOIA requests and responses;
- Maintain and update the city's information within the West Virginia Secretary of State's Freedom of Information Act Request Database, including contact information, response procedures, and other information required by law, and perform related administrative functions on behalf of the city;
- Consult with the city attorney as necessary; and
- Issue final responses on behalf of the city following consultation with appropriate department heads and, where appropriate, the City Attorney.

Centralized Intake of Requests

All persons requesting public records from any City department, office, board, official, employee, or agent shall be referred to the City Clerk.

Departments receiving requests directly shall promptly notify the City Clerk and forward any written correspondence relating to such requests.

Departmental Search Responsibilities

Upon receipt of a request, the City Clerk may direct any department, office, employee, official, contractor maintaining records on behalf of the City, or other custodian of City records to conduct a search for potentially responsive records.

Each department shall conduct a reasonable search of records systems, files, accounts, databases, devices, archives, and other locations reasonably likely to contain responsive records.

The reasonableness of any search may depend upon the specificity of the request, the records systems involved, the availability of electronic search tools, applicable retention practices, and the scope of records reasonably identifiable from the request.

Departments shall take reasonable steps to preserve potentially responsive records pending completion of the response process.

Department heads shall certify the results of such searches in a form approved by the City Clerk.

Requests Requiring Clarification or Narrowing

The City shall make reasonable efforts to identify and produce records responsive to requests made pursuant to the West Virginia Freedom of Information Act. However, requests may require clarification, narrowing, or additional discussion when the request:

- Does not reasonably identify the records sought;
- Is so broad, vague, indefinite, or expansive that city staff cannot reasonably determine what records are being requested;
- Would require searches across substantially all records systems, accounts, devices, or archived communications without reasonable subject-matter, custodian, keyword, or time limitations;
- Would require the city to create new records, compile information in a format not ordinarily maintained, or perform extensive research or analysis; or
- Would unreasonably interfere with the regular operations of the city due to the volume, scope, or method of retrieval required.

In such circumstances, the City Clerk may contact the requester to seek clarification, discuss reasonable search parameters, identify potentially responsive records systems, propose phased or prioritized production, or otherwise assist in focusing the request in a manner reasonably calculated to identify responsive records.

Factors that may be considered in determining whether clarification or narrowing is appropriate include:

- The number of departments, custodians, devices, or systems implicated;
- The absence of reasonable date limitations;
- The absence of identifiable subject matter;
- The anticipated volume of potentially responsive records;
- The availability or feasibility of electronic search tools;
- The extent to which responsive records can reasonably be identified through keyword, sender, recipient, subject-matter, or other targeted searches; and
- The disruption likely to result from the search, review, and redaction process.

Nothing in this section shall be interpreted as permitting the denial of a request solely because it seeks a large volume of records. The City shall make reasonable efforts to work cooperatively with requesters to identify records in a manner consistent with applicable law and the City's operational capabilities.

Electronic Communications and Electronic Records

For purposes of this Protocol, records may include:

- Email communications;
- Text messages;
- Archived communications systems;
- Electronic documents;
- Social media records;
- Cloud-based systems; and
- Other electronically stored information relating to the conduct of City business.

The City requires all employees to conduct City business only through City-approved or specified electronic communication systems and methods. If City business is nevertheless conducted through non-City systems or devices, responsive records may not be automatically retained or readily retrievable through City systems. Such records remain subject to applicable public records and records-retention laws, regardless of the system or device through which they were created, sent, received, or stored.

Where centralized archival, records-management, or communications-retention systems exist, searches may be conducted through those systems as directed by the City Clerk.

Special Procedures for Police Department Records

Recognizing the unique operational, investigative, evidentiary, and confidentiality concerns associated with law enforcement records, records maintained by the Elkins Police Department shall be handled pursuant to the procedures contained in this section.

For records maintained by the Elkins Police Department, the Chief of Police, or a designee approved by the Chief, shall:

- Conduct or supervise searches for responsive records;
- Identify records potentially responsive to the request;
- Review records for law enforcement sensitivities;
- Identify information believed to be exempt from disclosure;
- Perform any redactions or withholdings believed necessary to protect exempt information;
- Identify the legal or operational basis supporting such redactions or withholdings; and
- Provide responsive materials, as redacted and including the basis for redactions, to the city clerk.

In conducting such review, the chief may consider:

- Ongoing investigations;
- Confidential informants;
- Investigative methods and techniques;
- Officer safety concerns;
- Intelligence information;
- State or federal criminal justice information system restrictions (including CJIS requirements);
- Evidentiary integrity; and
- Other applicable legal exemptions.

The Chief of Police shall provide sufficient information to allow the City Clerk, and where appropriate the City Attorney, to understand and evaluate the basis for any withholding or redaction performed by the Police Department. Such information may be provided through certifications, memoranda, exemption summaries, or other reasonable documentation and need not consist of a line-by-line annotation of every redaction.

Review and Production of Police Records

The City Clerk shall not independently access, search, review, or retrieve records maintained within police-controlled systems except:

- With the authorization of the Chief of Police;
- As required by law;
- Pursuant to court order; or
- Upon advice of the City Attorney.

The City Clerk may rely upon the Chief's certification regarding the completeness of the search and the applicability of any exemptions, redactions, or withholdings applied by the Police Department.

Nothing herein shall prevent consultation among the City Clerk, Chief of Police, and City Attorney concerning the appropriate disposition of any request.

Final Determination

The final response to any request shall be issued by the City Clerk on behalf of the City.

Where questions exist concerning:

- Responsiveness;
- Exemptions;
- Redactions;
- Privilege;
- Law enforcement records; or
- Other legal issues,

the City Clerk shall consult with the City Attorney before issuing a response.

Protection of Confidential Information

Any records identified during a search that may be exempt from disclosure shall be treated as confidential pending review by the appropriate department head, the City Clerk, and, where appropriate, the City Attorney.

Electronic Records Systems

The City may utilize archival, retention, records-management, search, monitoring, or retrieval systems to assist in locating, preserving, reviewing, and producing records responsive to requests.

Use of such systems shall not alter the authority and responsibilities established by this Protocol.

Fees

Fees for records produced pursuant to the West Virginia Freedom of Information Act shall be limited to the actual cost of reproducing the records provided, including paper copies, physical storage media, postage, and similar direct material costs, in accordance with applicable law and the City's adopted FOIA Fee Schedule.

No fee shall be charged for the time spent searching for, reviewing, redacting, or otherwise processing records except to the extent expressly authorized by applicable law.

No Creation of Public Access Rights

Nothing in this Protocol shall be interpreted as creating a right of public access to records beyond that required by applicable law, nor shall it be interpreted as limiting any exemption, privilege, confidentiality requirement, or protection otherwise available under law.

Supersession

To the extent inconsistent herewith, this Protocol supersedes any prior administrative practices concerning the search, retrieval, review, and production of electronic records. All other provisions of the City's existing FOIA response procedures shall remain in effect unless expressly modified by subsequent action of Council.

City of Elkins FOIA Response Protocol

Approved by council: November 5, 2015

General Procedures

For the purposes of W. Va. Code §29B-1-1 et seq., as amended (commonly known as the Freedom of Information Act, or FOIA):

1. The "custodian of public records" for the City of Elkins is the City Clerk.

2. All persons requesting public records from any city department or city employee shall be referred to the City Clerk.

3. In consultation with the City Attorney, as needed, the City Clerk will manage the city's response to all FOIA records, including by notifying other appropriate city personnel of the request and the deadline for responding thereto.

4. The City Clerk will issue all outgoing and be notified of all incoming correspondence related to FOIA requests.

5. The City Clerk will maintain the city's central record of FOIA requests and responses.

6. Fees for FOIA requests will be charged in accordance with the attached FOIA Fees Schedule.

7. The following information will be entered into the W. Va. Secretary of State's online FOIA database by the tenth day of the month following completion of the request, in accordance with W. Va. Secretary of State Legislative Rule 153-52.

    a. The date the request was received;

    b. The name of the person or entity making the request;

    c. The subject of the request;

    d. Whether the request was granted or denied and the reason for any denial;

    e. The date of final completion of the request; and

    f. The amount of any charges to the person or entity making the request.

FOIA Fees Schedule

In the event of a request for the inspection and copying of city records under W. Va. Code §29B-1-1 et seq., as amended (commonly known as the Freedom of Information Act):

a. Copying or printing costs shall be ten cents ($0.10) per page; provided that the first 5 pages are free (limit: one free request per quarter);

b. No charge will be made if the total fee to process a request is fifty cents ($0.50) or less;

c. The charge for copying materials that must be reproduced outside of city hall facilities shall be the actual cost to reproduce the record;

d. Mailing or delivery charges may be charged, at the city's actual cost, in connection with sending the requested information to a requester;

e. Diskette, tape, flash drive or other storage media will be provided at the city's actual cost;

f. An invoice for the total amount of fees will be sent to the requester. Payment shall be made by check or money order payable to "City of Elkins";

g. Total or partial pre-payments may be required if the cost to reproduce the information will exceed twenty-five dollars ($25);

h. Total or partial pre-payments may be required if there are unpaid fees on one or more request by the same requester that exceed twenty-five dollars ($25); and

i. Any requester who claims that he or she cannot afford to pay the fees established by this rule may file an affidavit with the city clerk stating the reason the requester cannot afford to pay. If the city clerk agrees, the request will be processed in accordance with this rule and as if the fees have been paid.

##

CITY OF ELKINS
AGENDA ITEM REPORT

Meeting Date:	August 3, 2026
Section:	New Business
Category:	Action Item
Agenda Item Name:	Discussion of Sidewalks in City Code (§ 93.025-034)
Recommended By:	Councilor Carroll
Summary:	Councilor Carroll requests Committee and staff discussion of the following topics: • Chapter 93: Cleaning up who is responsibility for enforcement of sidewalk construction, maintenance, and repair. Responsibility of enforcement seems to be in the hands of the mayor and council when that responsibility might make more sense in the hands of code enforcement, street department, and operations. • Codifying Sidewalk Design Standards or Delegating Standard Setting to Street Department/Operations: We have no real standard set. It might make sense of fully codified some elements of the streetscaping plans or mirror similar rules from other cities (example: Lancaster, PA) • Verges: Add a section on purposes and uses of the verge. This could include the current sections about permitted plantings in the verge along with language purposes, standards, rain gardens, obstructions, changes to verge. Elkins City Code "Construction and Repair of Sidewalks" is attached for reference.
Fiscal Impact:	n/a
Recommendation:	Review, discuss and recommend next steps
Attachments:	1. code 93.025 - sidewalk const. repair

CONSTRUCTION AND REPAIR OF SIDEWALKS

§ 93.025 OBLIGATION OF OWNER; EXCEPTION.

(A) It shall be the duty of all persons owning land or lots which front upon a street which is maintained and kept by the city to put down and keep in good repair a suitable sidewalk or footwalk along the entire part of such land or lot which fronts upon any such street.

(B) When, in the opinion of the Council, it has become necessary, the property owner shall repave the sidewalk, in such a manner, of such width and of such suitable material as the Council shall direct; provided, that before any permanent sidewalk or footwalk is laid, it shall be the duty of the Public Works Director to fix the grade thereof, and such sidewalk shall be laid in conformity to such grade; and should the city, after the walk is laid, change the grade, the cost of laying a new walk to conform to such changed grade shall be paid by the city, as well as all damages the owner of the land or lot may sustain by reason of such change of grade.

(C) The Public Works Director, after establishing of the grade of any such walk shall report to the Council at the next regular meeting or sooner, if the Council shall so require, what is necessary for the protection and preservation of such walks to be laid in pursuance of this subchapter; and the Council, having made such provision for the protection and preservation of the walks as it deems necessary and proper, may thereupon direct that such walks be laid.

(1991 Code, § 18-13) (Ord. 097-03, passed 3-26-1997)

Statutory reference:

Assessments by city to improve streets and sidewalks, see W.Va. Code §§ 8-18-1 et seq.

Low cost street and sidewalk improvements, see W.Va. Code §§ 8-17-1 et seq.

§ 93.026 OBLIGATION OF OWNER; FAILURE TO COMPLY.

(A) *Notice; authority of city.* If at any time any sidewalk or footwalk needs repair, or if any land or lot owner fails to build such walk or repave any walk when repaving, in the opinion of the Council, has become necessary, it shall be the duty of the Mayor to cause the owner of the land or lot adjacent thereto to be notified in writing of such need of laying or repair of the walk and of the character of repaving needed to be done and, if such repairs are not made by the land or lot owner within ten days after the service of such notice or if such new walk is not laid or repaving done within 30 days after the service of such notice, the Council shall then have the power and authority to repair or repave any such sidewalk or footwalk.

(B) *Alternate arrangements.* The Council shall have the authority and it shall be within it sole discretion whether to repair or repave such walk by force account or by contract.

(1) *Force account.* If the Council elects to repair or repave the walk by force account, it shall keep an accurate account of the labor and materials used in making such repairs or repavement, which statement of costs shall be filed in the office of the City Clerk.

(2) *Contract.* If the Council determines to repair or repave by contract, the Council shall advertise for bids by publication in one of the newspapers of the city once a week for not more than two weeks, and all contracts let in pursuant of such advertisement shall be to the lowest responsible bidder; but nothing herein shall be construed to prevent the Council rejecting any and all bids made in pursuant of such advertisement.

(C) *Costs.* After any sidewalk is repaired, constructed or repaved in pursuance of the power herein granted, the cost thereof shall be paid out of the city treasury in the first instance and the Council, after allowing such costs, shall lay an assessment against the lot benefitted thereby, with a penalty of an amount set forth by Council from time to time added, and this assessment shall be placed in the hands of the City Collector and Treasurer, to be collected by him or her from such land or lot owner as city taxes are collected; and the cost of such work shall be a lien against such land or lot abutting on such walkway, taking priority over all other liens, except taxes, and shall be enforced as city taxes and assessments are enforced against real estate, or by other appropriate procedure.

(D) *Fines.* If the owner of any such land or lot, after having been given notice by the Mayor, as herein provided, to lay, repave or repair said sidewalk shall fail to do so within the time as herein provided, the Mayor may cause any such land or lot owner to be summoned before the Municipal Court Judge to show cause why a fine should not be imposed for such failure to repair, repave or construct the sidewalk as herein provided.

(E) *Service of notices to nonresidents.* If the owner of any such land or lot is not a resident of the city, the notice to him or her required by this regulation may be served upon him or her as notices are served under the laws of this state.

(1991 Code, § 18-14) Penalty, see § 93.999

§ 93.027 LIABILITY OF ADJACENT PROPERTY OWNERS.

Nothing in this subchapter shall be construed to relieve the adjacent property owner from liability for personal injury or property damage sustained by any person on account of any sidewalk becoming out of repair, and it shall be the duty of the property owner to keep the sidewalk adjacent to his or her property repaired, in good order, free and clean and, in case any

damage is sustained by the city or recovered against it on account of such sidewalk not being kept repaired, in good order, free and clean, the damages, including costs and expenses, shall be recoverable by the city from the adjacent property and the owner thereof. In case any suit is brought against the city by any person on account of any sidewalk being out of repair, it shall be the duty of the Mayor to notify the owner of the property adjacent to the sidewalk where the accident on which such suit is based is alleged to have occurred, and such property owner shall have the right to employ counsel and to come in and defend the suit if he or she so desires; provided, that the provision for the giving out of notice by the Mayor is only directory, and shall not preclude the right of the city to recover as aforesaid from the property owner, although such notice is not given.

(1991 Code, § 18-15)

§ 93.028 CONSTRUCTION STANDARDS.

No permanent sidewalk or footwalk shall be constructed within the city by any person unless it conforms to the specifications therefor on file in the office of the Mayor of the city; provided, that under special circumstances the Council may, by an order entered of record, specify any change or variation from such specifications. All permanent sidewalks or footwalks built by the city, where the owners have failed to construct them, shall be built in accordance with those specifications; but if any variation is made in the construction of such sidewalks by the city, such variation shall not deprive the city of its right to recover the cost of the construction of the sidewalk, and such variation in the specifications shall be deemed to have been made under the authority of the Council if the sidewalks, after being so constructed, are accepted from the contractor by the Council.

(1991 Code, § 18-16)

§ 93.029 PERMIT; FORM.

Prior to the construction of any sidewalk outside the property lines of any street in the city, there shall be secured from the City Clerk a sidewalk permit, made out in substantially the following form:

ORIGINAL.

Sidewalk Permit

No. _____ Elkins, W. Va., _____ 20_____

PERMIT is hereby issued to _____ owner and _____ contractor, subject to the ordinances of the City of Elkins, West Va., and the approval of the Public Works Director, to construct a concrete sidewalk _____ feet in width, and _____ feet in length, in front of Lot _____, Block _____, of _____ Subdivision, abutting and fronting on _____ Street, Avenue, in the City of Elkins, West Va.

Sidewalk to be built to conform to the lines, grades and specifications of the City of Elkins, West Va., and subject to the inspection and approval of the Public Works Director.

This permit to be void upon the date of the advertisement of the lot or lots herein specified for public letting, providing the actual work of placing concrete walk shall not have been begun on that date.

_____ City Clerk.

Elkins, W. Va., _____ 20_____

The walk in front of Lot _____, Block _____, of _____ Subdivision, abutting and fronting on _____ Street, Avenue, in the City of Elkins, West Va., conforms to the lines and grades given by this office and are, to the best of my information, constructed in accordance with the City specifications.

Grade and Line given _____

Inspected _____ _____ Public Works Director

Page _____ Sidewalk Record.

(1991 Code, § 18-17)

§ 93.030 PERMIT; REQUIRED; FEE.

The permit fees shall be as set forth by the Council.

(1991 Code, § 18-18)

§ 93.031 PERMIT; DETERMINATION OF PUBLIC WORKS DIRECTOR.

Forty-eight hours previous to the construction, repair or opening of any sidewalk, a notice shall be given the Public Works Director in order that the proper lines and grades may be established. No sidewalk shall be constructed, repaired or opened unless the lines and grades are either determined by or subjected to the inspection or supervision of the Public Works Director, as he or she may direct.

(1991 Code, § 18-19)

§ 93.032 PERMIT; DETERMINATION OF PUBLIC WORKS DIRECTOR; APPROVAL; CERTIFICATE.

(A) Upon the completion of the construction, repair or opening of the sidewalk, such permit shall be approved by the Public Works Director and, at the same time, a certificate shall be given, governing the amount of work done in the construction, repair or opening of such sidewalk, if desired by the property owner or the contractor.

(B) The certificate given shall be in substantially the following form:

Dist. No. _____ Elkins, W. Va., _____ 20_____

THIS IS TO CERTIFY, that the sidewalk on the _____ Street, Avenue, frontage of _____ of Lot No _____ Block No. _____ owned _____ by _____ was finished _____ 20_____, by _____, under contract dated _____ 20_____, in accordance with the specifications of the City of Elkins and under my supervision and inspection. The walk is_____ feet in length and _____ feet in width, and contains _____ square feet, which, at the contract price of _____ cents per square foot, amounts to $_____. I hereby accept the walk subject to the approval of the Mayor and Council of the City of Elkins.

Extra: _____

_____

Public Works Director.

THIS IS TO CERTIFY, That the excavation or embankment has been measured and calculated on the above described walk and found that there is due the contractor for excess excavation or embankment as follows:

Cubic yards Excavation at _____ per cubic yard, $_____

Cubic yards Embankment at _____ per cubic yard, $_____

Cubic yards Rock at _____ per cubic yard, $_____

Total cost of improvement, $_____

_____ Public Works Director.

Recorded in the office of the City Clerk of Elkins, West Virginia, in Sidewalk Record Book _____ Page _____

(Public Works Director's Note Book _____ Page _____)

(1991 Code, § 18-20)

§ 93.033 RECORD OF PERMITS AND CERTIFICATES.

A record of the sidewalk permits and certificates of work done shall be kept in the office of the City Clerk and in the office of the Public Works Director, for inspection at all times. At the time of the determination of the grades and lines such determinations shall be fully described and set forth by the Public Works Director and entered in a record kept for that purpose.

(1991 Code, § 18-21)

§ 93.034 APPLICATIONS TO HAVE SIDEWALK GRADES AND LINES ESTABLISHED.

Any citizen desiring that sidewalk or other grades and lines be established shall make application, in writing, to the Council, on a form to be determined by the Public Works Director and, should the Council see fit to establish the grade and lines requested, the application shall be referred to the Public Works Director, with instructions to establish such grades and lines and to make report back to the Council, in writing, on the back of the application, giving the grades and lines as established upon true meridian and elevation above sea level, as established by the United States geological survey.

(1991 Code, § 18-22)

Cross-reference:

Grades and elevations generally, see §§ 10.08 through 10.12