

**CITY OF MORGANTOWN
MUNICIPAL SERVICE FEE ADMINISTRATIVE REGULATIONS**

§ 1 Purpose and Effect.

These administrative regulations and the forms appended hereto are promulgated by the Finance Director of the City of Morgantown pursuant to City Code, Article 745, all relating to administration of and compliance with the municipal service fee (the "Fee").

§ 2 Guidelines for Orderly Collection and Payment of Fee.

(a) *Effective Date.* The Fee accrues each calendar week during which an individual Employee or Self-Employed Person is Employed in Morgantown. A calendar week begins each Sunday and runs through the next succeeding Saturday. The Fee is effective for all calendar weeks beginning January 1, 2016. No proration is allowed with respect to the week beginning January 1, 2016, nor is proration allowed respecting any week during which an Employee or Self-Employed Person changes Employment status. The entire Fee is due if an individual is an Employee or Self-Employed Person to whom the Fee applies for any part of a calendar week beginning January 1, 2016.

(b) *Employer Withholding and Remittance.* For each individual who is an Employee to whom the Fee applies, that individual's Employer shall withhold from that Employee's paycheck the entire amount of the Fee. For an Employer that follows a regular payroll cycle other than on a weekly or bi-weekly basis, the Employer may elect to withhold and an Employee may pay a computed Fee based upon the Employer's regular payroll cycle in accordance with the following: The computed Fee paid and withheld respecting a weekly payroll cycle shall be \$3.00 for each Employee, Bi-weekly payroll cycle shall be \$6.00 for each Employee, semi-monthly payroll cycle shall be \$6.50 for each Employee for each half-month, and the computed Fee paid and withheld respecting a monthly payroll cycle shall be \$13.00 for each Employee for each month. If the Employer elects to withhold a computed Fee in accordance with the preceding sentence with respect to a payroll cycle, then (i) the Employer shall withhold the computed Fee for all Employees subject to that payroll cycle; (ii) no proration shall be allowed with respect to any payroll period during which an Employee changes Employment status; (iii) the fee shall be effective for all payroll periods ending on or after January 1, 2016; and (iv) the election shall not be revoked for any subsequent payroll periods without the written approval of the Finance Director consenting to the revocation.

(c) *Prior Payment of Fee.* Notwithstanding anything herein to the contrary, an Employer who receives in good faith and retains a properly completed Prior Payment Form (in the form set forth in the appendix, Form MSF-3) from an Employee shall be relieved from withholding the Fee with respect to that Employee for periods ending on and after the Employer's receipt of the properly completed Prior Payment of Fee Form until the Form is no longer effective. The Form is not effective for any period the Employer has any reason to believe that the Employee's assertions on the Form are not at that time materially accurate or upon issuance of notice by the Finance Director of disallowance of the Form.

(d) *Municipal Service Fee remittance Form.* If a Self-Employed Person to whom the Fee applies is a member or partner of an entity that is an Employer subject to the withholding requirements of Section 2(b) of these regulations and that Self-Employed Person is entitled to or otherwise regularly receives a periodic distribution or draw from the Employer, the Self-Employed person shall remit the Fee to the Employer as though the Self-Employed Person were an Employee and the Employer shall collect and remit the Fee from each such Self-Employed Person along with all amounts withheld from Employees in accordance with these regulations.

(e) *Failure to Withhold or Remit.* An Employer required to withhold the Fee that fails to withhold the Fee with respect to any period with respect to any Employee shall be liable for the Fee and all interest and penalties accrued thereon. An Employer that withholds the Fee with respect to any period with respect to any Employee that fails to remit the Fee to the Finance Director when due shall be liable for the Fee and all interest and penalties accrued thereon. An Employer that receives the Fee from a Self-Employed Person in accordance with Section 2(d) and that fails to remit the Fee to the Finance Director when due shall be liable for the Fee and all interest and penalties accrued thereon.

§ 3 Form to Accompany Remittance.

Each remittance to the Finance Director shall be by a good check or warrant and shall be accompanied by a Remittance Form (in the appropriate form set forth in the appendix, Form MSF-1) respecting the applicable reporting period. A Remittance Form shall be fully completed and legible and shall be signed by the Employer or Self-Employed Person, as the case may be, where indicated. Failure to file a complete, legible and signed Remittance Form with a remittance renders a remittance materially incomplete and the remittance shall be deemed not to be made for purposes of Code section 745.99 until the appropriate Remittance Form is duly filed.

§ 4 Reporting Period; Due Dates.

Each calendar quarter ending March 31, June 30, September 30 and December 31, respectively after January 1, 2016 shall constitute a separate reporting period. All Fees withheld and received by an Employer and all Fees accrued with respect to a Self-Employed Person, accompanied by the appropriate Remittance Form, during a reporting period shall be delivered to the Finance Director no later than the last day of the month next succeeding close of the reporting period. A remittance and Remittance Form delivered by United States mail shall be deemed delivered on the date of the legible United States postmark on the envelope properly addressed to the Finance Director with postage fully paid within which the remittance and Remittance form are enclosed. If the due date falls on a Saturday, Sunday or legal holiday in City, then the due date shall be the next day that is not a Saturday, Sunday or City legal holiday.

§ 5 Records and Worksheets.

Every Employer required to remit a Fee for a reporting period shall maintain and retain each of the records set forth in this Section 5 and for three years after the Remittance Form is filed with respect to a particular reporting period. Upon request, the Employer shall promptly provide copies of these records to the Finance Director or make the records available for reasonable inspection at an accessible location within the City, at the Finance Director's option. The worksheet, prior payment form and employee information described in this Section 5 are not to be submitted to the Finance Director unless specifically requested.

(a) *Worksheet.* Every Employer shall complete, retain and make readily available a separate worksheet (in the form specified in the appendix, Form MSF-2) with respect to each reporting period signed by the Employer or the individual authorized by the Employer preparing the worksheet that corresponds to the Remittance Form filed with respect to the reporting period.

(b) *Prior Payment Form.* Every Employer shall retain and make readily available a separate and fully executed Prior Payment Form (in the form specified in the appendix, Form MSF-3) with respect to each Employee if such Prior Payment Form affects the amount remitted during the reporting period, together with any evidence from the Employee respecting the continued validity of the Form and any notice of the Finance Director relating to a disallowance of any such Prior Payment Form.

(c) *Employee Information.* Each Employer shall compile and retain the following information with respect to each Employee Employed by the Employer during the reporting period: the name, hire date, termination date (if appropriate), address, identification number of each Employee subject to the Fee during the reporting period.

§ 6 Refund Claims.

All refund claims shall be on the Refund Claim Form (in the form specified in the appendix, Form MSF-4). The claim must be filed within 30 days after the fee is paid over to the Finance Director by the Employer. However, if the Employer remits the fee prior to the due date, then the claim must be filed no later than 30 days after the due date of the remittance. The time period for filing refund claims is strictly enforced and cannot be waived. A complete and signed Refund Claim Form delivered by United States mail shall be deemed delivered on the date of the legible United States postmark on the envelope properly addressed to the Finance Director with postage fully paid within which the Refund Claim Form are enclosed. If the due date falls on a Saturday, Sunday or legal holiday in City, then the due date shall be the next day that is not a Saturday, Sunday or City legal holiday.

§ 7 Additional Guidance.

The following examples, in a question and answer format, provide additional guidance:

(a) *Vacation, Business Travel, Paid Leave.*

Q: How does the Fee work with respect to an employee, otherwise based in Morgantown, who spends the week on paid vacation, paid-out-of-town business travel, paid leave, or the like?

A: The Fee continues to apply with respect to an employee who, prior to the paid-out-of-office time, was liable for the Fee unless, prior to the commencement of the paid-out-of-office time, the employee had been indefinitely reassigned to a specific location outside the City.

(c) *Contractors and Sub-Contractors.*

Q: How does the Fee apply to contractors and sub-contractors providing services within the City?

A: The Fee is imposed upon self-employed persons that maintain an office or are physically reporting to one or more locations within the City. The Fee is imposed upon an employee employed at or physically reporting to one or more locations within the City. For Contractors and Sub-Contractors that do not maintain an office within the City, the Fee will only be due for weeks in which work occurred within the City. Fees are not prorated for partial weeks. For Contractors and Sub-Contractors that do maintain an office within the City, the Fee will be due for all employees.

(d) *Rental Property Owners.*

Q: How does the Fee apply to rental property owners providing services within the City?

A: The place of business is determined as the location of the rental property and the fee would be imposed on an individual owning the property unless the property owner is not subject to the self-employment tax. If the individual is not subject to the self-employment tax they will be exempt from

the municipal service fee but any employee who performs work at that rental location will be subject to the weekly service fee. Fees are not prorated for partial weeks.

§ 8 Privacy Act Statement.

Disclosure of a Social Security Number (SSN) to the City of Morgantown is voluntary. If you do not wish to disclose your SSN, you may provide an alternative identification number. The City of Morgantown solicits this information pursuant to West Virginia Code § 8-13-13. The City of Morgantown will not disclose your SSN or any other personal information you provide to any other entity or party. The City of Morgantown requests this information to facilitate the verification of withholding and payment of service fees.

§ 9 Confidentiality; Retention and Disclosure of Information.

All remittance forms filed by Employers and Self-Employed Persons concerning the Fee and all information, worksheets and forms referenced in Section 5 reviewed or requested by the City are considered to be confidential records. The City retains the right to destroy extraneous information submitted in connection with the Fee that is neither requested nor used for Fee administration purposes. The City reserves the right to disclose or publish information consisting of names and delinquent amounts (or estimates thereof) concerning the Fee after notice of delinquency is sent to the last known address of the delinquent Employer or Self-Employed Person.

If the Code and these administrative regulations do not answer your questions about the application of the Fee, please submit your questions in writing to the Finance Department at the following address: email servicefee@morgantownwv.gov or U.S. mail: City of Morgantown, Finance Department, 389 Spruce Street, Morgantown, WV 26505.