

Title 08

Office of Information Technology

Subtitle 01 Records Management

Chapter 01 Public Information Act Requests

Authority: §§ 3-1-203, 3-7-202 and 3-8-103, Baltimore County Code, 2003

.01 Scope.

This chapter sets out procedures under the Public Information Act for filing and processing requests to any Department of the County general government for the inspection and copying of a public record of a Department.

.02 Policy.

It is the policy of the county to facilitate access to the public records of a Department, when access is allowed by law, by minimizing costs and time delays to applicants.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Act” means the Public Information Act, State Government Article, §§10-611 through 10-628, Annotated Code of Maryland.

(2) “Applicant” has the meaning stated in §10-611 of the Act.

(3) “Custodian” has the meaning stated in §10-611 of the Act.

(4) “Department” means the Department, Office, agency, board, or commission of the county general government receiving a request to review a public record under the Act.

(5) “Director” means the Director of a Department.

(6) “Metadata” has the meaning stated in §10-611 of the Act.

(7) “Official custodian” has the meaning stated in §10-611 of the Act.

(8) “Public record” has the meaning stated in §10-611 of the Act.

(9) “Working day” means a day other than Saturday, Sunday, or a County holiday.

.04 Director as Official Custodian.

Unless otherwise provided by law, the Director is the official custodian of the public records of the Department.

.05 Who May Request Public Records.

Any person may request to inspect or copy a public record of a Department.

.06 Necessity for Written Request.

A. Inspection.

(1) Except as otherwise provided in this chapter, the custodian shall make a public record of the Department available for inspection by an applicant without demanding a written request.

(2) The custodian shall require a written request if the custodian reasonably believes that:

(a) The Act or any other law may prevent the disclosure of the public record to the applicant; or

(b) A written request will materially assist the Department in responding.

B. Copies.

If the applicant requests one or more copies, including electronic copies, of any public record of the Department, the custodian may require a written request.

.07 Contents of Written Request.

A written request shall:

A. Contain the applicant's name and address;

B. Be signed by the applicant; and

C. Reasonably identify, by brief description, the public record sought.

.08 Addressee.

A request to inspect or copy a public record of the Department shall be addressed to the custodian of the public record. If the custodian is unknown, the request may be addressed to the Director.

.09 Response to Request.

A. If the custodian decides to grant a request for inspection, the custodian shall produce the public record for inspection;

(1) Immediately; or

(2) Within a reasonable time period, not to exceed 30 days after the date of the request, if that period is needed to retrieve the public record and conduct any necessary review.

B. (1) If the custodian decides to deny a request for inspection:

(a) The custodian shall do so within 30 days after the request; and

(b) Immediately notify the applicant of the denial.

(2) If a request is denied, the custodian shall provide the applicant, at the time of the denial or within 10 working days, a written statement that gives:

(a) The reasons for the denial;

(b) The legal authority for the denial; and

(c) Notice of the remedies available for review of the denial.

C. If a requested public record is not in the custody or control of the person to whom application is made, that person shall, within 10 working days after receipt of the request, notify the applicant:

(1) That the person does not have custody or control of the requested public record; and

(2) If the person knows:

(a) The name of the custodian of the public record; and

- (b) The location or possible location of the public record.
- D. With the consent of the applicant, any time limit imposed by §§A through C of this regulation may be extended for an additional period of up to 30 days.
- E. (1) This section applies to a request submitted by an applicant:
 - (a) After October 1, 2011; and
 - (b) Unless Section 2 of Chapter 536 of the Laws of Maryland of 2011 is amended by the General Assembly, before October 1, 2013.
- (2) The custodian of a public record shall provide an applicant with a copy of the public record in a searchable and analyzable electronic format if:
 - (a) The public record is in a searchable and analyzable electronic format;
 - (b) The applicant requests a copy of the public record in a searchable and analyzable electronic format; and
 - (c) The custodian is able to provide a copy of the public record, in whole or in part, in a searchable and analyzable electronic format that does not disclose:
 - (i) Confidential or protected information for which the custodian is required to deny inspection in accordance with §§ 10-615 through 10-617 of the Act; or
 - (ii) Information for which a custodian has chosen to deny inspection in accordance with § 10-618 of the Act.
- (3) A custodian may remove metadata from an electronic document before providing the electronic document to an applicant by:
 - (a) Using a software program or function; or
 - (b) Converting the electronic document into a different searchable and analyzable format.
- (4) This Section may not be construed to:
 - (a) Require the custodian to reconstruct a public record in an electronic format if the custodian no longer has the public record available in electronic format;
 - (b) Allow a custodian to make a public record available only in an electronic format;
 - (c) Require a custodian to create, compile, or program a new public record; or
 - (d) Require a custodian to release an electronic record in a format that would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.
- (5) If a public record exists in a searchable and analyzable format, the act of a custodian providing a portion of the public record in a searchable and analyzable format does not constitute creating a new public record.

.10 Notice and Consideration of Views of Person Potentially Affected by Disclosure.

- A. Unless prohibited by law, the custodian may provide notice of a request for inspection or copying of any public record of the Department to any person who, in the judgment of the custodian, could be adversely affected by disclosure of that public record.
- B. The custodian may consider the views of the potentially affected person before deciding whether to disclose the public record to an applicant.

.11 Public Record Temporarily Unavailable.

If a requested public record of the Department is in the custody and control of the person to whom application is made but is not immediately available for inspection or copying, the custodian shall promptly:

- A. Notify the applicant that the public record is not available; and
- B. Schedule a date within a reasonable time for inspection or copying.

.12 Public Record Destroyed or Lost.

If the person to whom application is made knows that a requested public record of the Department has been destroyed or lost, that person shall promptly:

- A. Notify the applicant that the public record is not available; and
- B. Explain the reasons why the public record cannot be produced.

.13 Review of Denial.

If the custodian denies a request to inspect or copy a public record of the Department, the applicant may file an action for judicial enforcement under §10-623 of the Act without exhausting any administrative remedy.

.14 Disclosure against Public Interest.

- A. Denial Pending Court Order.

(1) If, in the opinion of the Director, disclosure of a public record of the Department otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Director may temporarily deny the request to obtain a court order allowing nondisclosure.

- (2) The temporary denial shall be in writing.

- B. Circuit Court Review.

(1) Within 10 working days after the denial, the Director shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.

(2) Notice of the Director's complaint shall be served on the applicant in the manner provided for service of process by the Maryland Rules of Procedure.

.15 Fees.

A. (1) The fee schedule for copying, including electronic copying, and certifying copies of a public record of the Department is determined as provided in Article 3, Title 1, Subtitle 2 of the Baltimore County Code, 2003.

(2) Certification of Copies. If a person requests that a copy of a public record be certified as a true copy, an additional fee may be determined as provided in Article 3, Title 1, Subtitle 2 of the Baltimore County Code, 2003.

B. Notwithstanding §A of this regulation, if the fee for copies, electronic copies, or certified copies of any public record of the Department is specifically set by a law other than the Act or this regulation, the custodian shall charge the prescribed fee.

C. If the custodian cannot copy a public record within the Department, the custodian shall make arrangements for the prompt reproduction of the public record at public or private facilities outside the Department. The custodian shall:

- (1) Collect from the applicant a fee to cover the actual cost of reproduction; or

(2) Direct the applicant to pay the cost of reproduction directly to the facility making the copy.

D. Before copying a public record of the Department, the custodian shall estimate the cost of reproduction and either:

- (1) Obtain the agreement of the applicant to pay the cost; or
- (2) Demand prepayment of the cost.

E. Search and preparation fees.

(1) Except as provided in §F of this regulation, in consultation with the Director of Budget and Finance, the custodian may charge a reasonable fee for time that an official or employee of the Department spends:

- (a) To search for a requested public record; or
- (b) To prepare a public record for inspection and copying.

(2) Before responding to the request, the custodian may estimate the fee applicable under subsection (1) of this section and either:

- (a) Obtain the agreement of the applicant to pay the fee; or
- (b) Demand prepayment of the estimated fee.

F. The custodian may not charge a search or preparation fee for the first 2 hours that an official or employee of the Department spends to respond to a request for a public record.

G. Waiver or Reduction of Fee.

(1) The official custodian may waive or reduce any fee set under this regulation if:

- (a) The applicant requests a waiver; and
- (b) The custodian determines that the waiver or reduction is in the public interest.

(2) The official custodian shall consider, among other relevant factors, the ability of the applicant to pay the fee.

H. If the applicant requests that copies of a public record be mailed or delivered to the applicant or to a third party, the custodian may charge the applicant for the cost of postage or delivery.

.16 Time and Place of Inspection.

A. An applicant may inspect any public record of the Department that the applicant is entitled to inspect during the normal working hours of the Department.

B. The inspection shall occur where the public record is located, unless the custodian, after taking into account the applicant's expressed wish, determines that another place is more suitable and convenient.

Administrative History

This Chapter originally adopted on September 26, 2011.