

Adopted: December 9, 2015  
Effective: December 9, 2015

## **Town of Chevy Chase Procedures Governing Maryland Public Information Act Requests**

In accordance with amendments to the Maryland Public Information Act, effective October 1, 2015, the Town of Chevy Chase hereby updates its procedures governing Public Information Act Requests.

### **I. General**

**1-1. Scope.** This chapter sets out procedures under the Public Information Act for filing and processing requests to the Town of Chevy Chase (the “Town”) for the inspection and copying of public records of the Town.

**1-2. Policy.** It is the policy of the Town to facilitate access to the public records of the Town, when access is allowed by law, by minimizing costs and time delays to applicants.

#### **1-3. Definitions.**

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

B. Terms Defined.

(1) “Act” means the Public Information Act, General Provisions Article, §§ 4-101 to 4-601, Annotated Code of Maryland.

(2) “Applicant” has the meaning stated in General Provisions Article, § 4-101(b), Annotated Code of Maryland.

(3) “Board” has the meaning stated in General Provisions Article, § 4-101(c), Annotated Code of Maryland.

(4) “Copy” means any form of reproduction using a photocopying machine or other reproduction technology, including a paper copy, an electronic copy, a printout, or an image.

(5) “Custodian” has the meaning stated in General Provisions Article, § 4-101(d), Annotated Code of Maryland.

(6) “Indigent” has the meaning stated in General Provisions Article, § 4-206(a)(2), Annotated Code of Maryland.

(7) “Metadata” has the meaning stated in General Provisions Article, § 4-205(a), Annotated Code of Maryland.

(8) “Official custodian” has the meaning stated in General Provisions Article, § 4-101(f), Annotated Code of Maryland.

(9) “Person in interest” has the meaning stated in General Provisions Article, § 4-101(g), Annotated Code of Maryland.

(10) “Public Access Ombudsman” means the official appointed under General Provisions Article, Title 4, Subtitle 1B, to resolve disputes under the Act.

(11) “Public record” has the meaning stated in General Provisions Article, § 4-101(j), Annotated Code of Maryland.

(12) “Reasonable Fee” has the meaning stated in General Provisions Article, § 4-206(a)(3), Annotated Code of Maryland.

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

**1-4. Town Manager as Official Custodian.** Unless otherwise provided by law, the Town Manager is the official custodian of the public records of the Town and is designated as the Town’s representative who a member of the public should contact, using the following contact information, to request a public record from the Town:

4301 Willow Lane  
Chevy Chase, MD 20815  
301-654-7144  
thoffman@townofchevyCHASE.org

**1-5. Who May Request Public Records; Immediately Available Records.** Any person may request to inspect or copy public records of the Town. Except as otherwise provided in these procedures, the following records are designated to be made available to any applicant immediately on request:

- (1) Recent Council meeting agendas;
- (2) Recent Council meeting minutes;
- (3) Recent Town newsletters;
- (4) Most recent Treasurer’s Report and Financial Statement;
- (5) Most recent Budget;
- (6) Most recent Annual Audit; and
- (7) Current Town Charter, Code, regulations, and policies

**1-6. Necessity for Written Request.**

A. Inspection.

(1) Except as otherwise provided in this chapter, the custodian shall make public records of the Town 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 one or more public records to the applicant; or
- (b) A written request will materially assist the Town in responding.

B. Copies. If the applicant requests one or more copies of any public record of the Town, the custodian may require a written request.

**1-7. 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.

**1-8 Addressee.** A request to inspect or copy a public record of the Town shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Town Manager.

**1-9. Response to Request.**

A. (1) If the custodian decides to grant a request for inspection, the custodian shall produce the public record for inspection:

- (a) Immediately; or
- (b) 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.

(2) If the custodian reasonably believes that it will take more than 10 working days to produce the public record, the custodian shall indicate in writing or by electronic mail within 10 working days after receipt of the request:

- (a) The amount of time that the custodian anticipates it will take to produce the public record;
- (b) An estimate of the range of fees that may be charged to comply with the request for public records; and
- (c) The reason why it will take more than 10 working days to produce the records.

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

- (a) Deny the request 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;
- (c) The reason for any partial denial, including a brief explanation of:
  - (i) Why denial is necessary;

(ii) Why the harm from disclosure of the public record would be greater than the public interest in providing access to the information in the public record such that disclosure of the public record would be contrary to the public interest;

(d) Without disclosing the protected information, a brief description of the undisclosed records that will enable the applicant to assess the applicability of the legal authority for the denial; and

(e) 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. Any time limit imposed by paragraphs A through C of this section may be extended:

(1) With the consent of the applicant, for an additional period of up to 30 days; and

(2) For the period of time during which a dispute initiated by the applicant is pending before the Public Access Ombudsman.

#### **1-10. Notice to 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 Town 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.

#### **1-11. Electronic Records.**

A. Except as provided in paragraphs C and D of this section, the custodian shall provide an applicant with a copy of the public record in a searchable and analyzable electronic format if:

(1) The public record is in a searchable and analyzable electronic format;

(2) The applicant requests a copy of the public record in a searchable and analyzable electronic format; and

(3) 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 information that is exempt from disclosure under the Act.

B. The custodian shall provide a portion of the public record in a searchable and analyzable electronic format if:

(1) Requested by the applicant, and

(2) The custodian is able to do so by using the existing functions of the database or software program that contains the searchable and analyzable data.

C. The custodian is not required to:

(1) Create or reconstruct a public record in an electronic format if the public record is not available in an electronic format; or

(2) 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 the record is maintained.

D. The custodian may remove metadata from an electronic document before providing the electronic record to an applicant by:

(1) Using a software program or function; or

(2) Converting the electronic record into a different searchable and analyzable format.

**1-12. Public Record Destroyed or Lost.** If the custodian knows that a requested public record of the Town has been destroyed or lost, the custodian 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.

**1-13. Review of Denial.**

A. If the custodian denies a request to inspect or copy a public record of the Town, the applicant may file an action for judicial enforcement under General Provisions Article, § 4-362, Annotated Code of Maryland, without pursuing the remedies set forth in paragraphs B and C below. An applicant need not exhaust the available remedies set forth in paragraphs B and C below before filing suit. The remedies may be exercised without waiving the right to pursue a judicial remedy.

B. If the custodian charges a fee of more than \$350 under section 1-15 of this chapter, the applicant may, within 90 days after the date the fee is imposed, file a written complaint with the Board under General Provisions Article, § 4-1A-05(a), Annotated Code of Maryland.

C. The applicant and the custodian each may contact the Public Access Ombudsman to resolve, under General Provisions Article, Title 4, Subtitle 1B, Annotated Code of Maryland, a dispute relating to requests for public records.

**1-14. Disclosure against Public Interest.**

A. Denial Pending Court Order.

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

(2) A temporary denial shall be in writing.

**B. Circuit Court Review.**

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

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

**1-15. Fees.**

A. The fee schedule for copying and certifying copies of public records of the Town is as follows:

(1) Copies.

(a) The fee for each copy made by a standard printer or photocopying or scanning machine within the Town is 50 cents per page.

(b) The fee for each copy made otherwise shall be based on the actual cost of reproduction.

(2) Certification of Copies. If a person requests that a copy of a public record be certified as a true copy, an additional fee of \$1 per page (or if appropriate, per item) shall be charged.

B. Notwithstanding paragraph A of this section, if the fee for copies or certified copies of any public record of the Town is specifically set by a law other than the Act or these procedures, the custodian shall charge the prescribed fee.

C. If the custodian cannot copy a public record within the Town, the custodian shall make arrangements for the prompt reproduction of the record at public or private facilities outside the Town. 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 Town, the custodian shall estimate the cost of reproduction and either:

(1) Obtain the agreement of the applicant to pay the cost; or

(2) Require prepayment of all or a portion of the cost.

E. Search and Preparation Fee.

(1) Except as provided in paragraph F of this section, the custodian may charge a reasonable fee for time that Town staff or an attorney for the Town, spends:

- (a) To search for requested public records;
- (b) Review requested public records for potential disclosure; and
- (c) To prepare public records for inspection and copying.

(2) The custodian shall determine the fee under subparagraph (1) of this section by multiplying the staff member's salary, or attorney's compensation, prorated to an hourly basis, by the actual time attributable to the search for, review of, and preparation of public records for inspection and copying.

F. The custodian may not charge a fee under paragraph E of this section for the first 2 hours spent searching for and preparing a public records for inspection.

G. Waiver or Reduction of Fee.

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

- (a) The applicant requests a waiver; and
- (b) (i) The custodian determines that the waiver or reduction is in the public interest; or  
(ii) The applicant is indigent and files an affidavit verifying the facts that support a claim of indigency.

(2) In determining whether a fee is in the public interest, the 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.

### **1-16. Time and Place of Inspection.**

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

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.

## **II. Correction or Amendment of Public Records**

**2-1. Scope.** This chapter sets out procedures under which a person in interest may request the correction or amendment of public records of the Town.

**2-2. Definitions.** In this chapter, the terms defined in chapter 1 have the same meanings indicated.

**2-3. Who May Request.** A person in interest may request that the Town correct or amend any public record that:

- A. The Town keeps; and
- B. The person in interest is authorized to inspect.

**2-4. Contents of Request.**

A. A person in interest shall make a request to correct or amend a public record in writing.

B. The request shall:

- (1) Identify the public record to be corrected or amended;
- (2) State the precise correction or amendment requested;
- (3) State the reason for the correction or amendment; and
- (4) Include a statement that, to the best of the requester's belief, the public record is inaccurate or incomplete.

**2-5. Addressee.** A request to correct or amend a public record shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Town Manager.

**2-6. Return of Nonconforming Request.**

A. The Town shall accept a request to correct or amend a public record when it is received if it reasonably complies with section 2-4 and 2-5 of this chapter.

B. If the request does not reasonably comply with section 2-4 and 2-5 of this chapter, the Town shall return the request to the requester with:

- (1) An explanation of the reason for the return; and
- (2) A statement that, on receipt of a request that reasonably complies with section 2-4 and section 2-5 of this chapter, the request will be accepted.

**2-7. Response to Request.** Within 30 days after the Town receives a request for correction or amendment that reasonably complies with section 2-4 and 2-5 of this chapter, the custodian shall:

A. Make the requested correction or amendment, and inform the requester in writing of the action; or

B. Inform the requester in writing that the Town will not:

- (1) Make the requested correction or amendment, and the reason for the refusal;

or

(2) Act on the request because:

- (a) The requester is not a "person in interest";
- (b) The requestor is not authorized to inspect the record; or
- (c) Of any other reason authorized by law.

**2-8. Refusal of Request.** If the Town refuses to make a requested correction or amendment, a person in interest may file with the Town a concise statement of the reasons for:

- A. The requested correction or amendment; and

B. The person's disagreement with the refusal of the Town to make the correction or amendment.

**2-9. Requirements for Statement of Disagreement.** The statement submitted under section 2-8 shall:

- A. Be on pages no larger than 8½ x 11 inches in size;
- B. Use only one side of each page; and
- C. Consist of no more than 5 pages.

**2-10. Providing Statement of Disagreement.** If a person in interest files a statement of disagreement concerning a public record under sections 2-8 and 2-9 of this chapter, the Town shall provide a copy of the statement whenever the Town discloses the public record to a third party.

**2-11. Administrative Review.**

A. A person may request administrative review if the Town:

(1) Has refused the person's request to correct or amend a public record under section 2-7 of this chapter;

(2) Has rejected the person's statement of disagreement under sections 2-8 of this chapter; or

(3) Has not provided a statement of disagreement to a third party under sections 2-10 of this chapter.

B. A request for review shall be filed with the Town Manager within 30 days after the requester is advised of the Town's action.

C. The Town Manager shall transmit to the Town Council all documents and papers pertaining to the review which shall constitute the record. The Town Council shall hold a hearing on the request for review. Except as otherwise provided by law, the hearing shall be open to the public. The effective date of any decision shall be the date the Town Council issues its written decision.