

**TOWN OF FOREST HEIGHTS
RESOLUTION 89-13**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FOREST HEIGHTS,
MARYLAND, ADOPTING A POLICY GOVERNING REQUESTS
FOR PUBLIC INFORMATION AND PUBLIC RECORDS.**

Introduced By: Mayor Jacqueline Goodall

WHEREAS, the public's right to information about government activities lies at the heart of a democratic government; therefore, Maryland's Public Information Act grants the people of this State a broad right of access to public records while protecting legitimate governmental interests and the privacy rights of individual citizens; and

WHEREAS, State Government Article, Section 10-601 *et. seq.* of the Annotated Code of Maryland with certain exceptions grants any person who has the right to inspect a public record the right to be furnished copies, printouts, or photographs for a reasonable fee; and

WHEREAS, the Town of is a political subdivision of the State of Maryland subject to the requirements of Maryland's Public Information Act pursuant to State Government Article, Section 10-611(g); and

WHEREAS, the Town wishes to adopt rules and policies regarding the processing of requests for Town records and any fees charged relating thereto as permitted by Sections 10-613 and 10-621 of the Act.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Town Council of the Town of Forest Heights, Maryland that the following rules and regulations shall govern any applicable Town operations and policies, and shall be effective after adoption of this resolution as stated herein below.

Section 1. Public Information Act Requests

RULES ON PUBLIC INFORMATION ACT REQUESTS

.01 Scope.

This resolution sets out procedures under the Maryland Public Information Act (State Government Article, §§10-611 through 10-630, Annotated Code of Maryland) for filing and processing requests to The Town of Forest Heights for the inspection and copying of public records of the Town.

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.02 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, while minimizing disruption to provision of municipal services in general to the Town's residents by staff and others.

.03 Definitions.

A. In this resolution, 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(b) of the Act.
- (3) "Custodian" has the meaning stated in §10-611(c) of the Act.
- (4) "Official custodian" has the meaning stated in §10-611(d) of the Act.
- (5) "Public record" has the meaning stated in §10-611(g) of the Act.
- (6) "Regulation" means the rules set forth in this resolution of the Town Council or any amendment thereto.
- (7) "Town" means The Town of Forest Heights, Maryland
- (8) "Working day" means a day other than Saturday, Sunday, or a State holiday.

.04 Mayor as Official Custodian.

Pursuant to Section 33-64 of the Charter of the Town of Forest Heights, the Town Clerk is the Custodian of the public records of the Town. Pursuant to Section 33-18 of the Charter of the Town of Forest Heights, the Council hereby designates the Mayor, as the Chief Executive Officer, as the Official Custodian of the public records of the Town.

.05 Who May Request Public Records.

Any person may request to inspect or copy public records of the Town.

.06 Necessity for Written Request.

A. Inspection.

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(1) Except as otherwise provided in this resolution, 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 the public record to the applicant; or

(b) A written request will materially assist the Town in responding. The custodian may request a written request to facilitate payment of applicable costs or in the event it is necessary to further communicate with the applicant while the public information is being researched and prepared for inspection or delivery.

B. Copies.

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

.07 Contents of Written Request.

A written request shall:

A. Contain the applicant's name, address, telephone number and email address, if applicable;

B. Be signed by the applicant; and

C. Reasonably identify, by brief description, the public record sought. The custodian shall not be required to create, compose, write, query, produce or construct a new public record in order to fulfill the applicant's request or description of the desired public record or information.

.08 Addressee.

A request to inspect or copy a public record of the Town shall be addressed to the Town Clerk or the Mayor.

.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. The Mayor

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may authorize review of the request by the Town Attorney prior to release of any public information.

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, within 10 working days or at the time of the denial, a written statement that gives:

- (a) The reasons for the denial;
- (b) The legal authority for denial found in the Act or other pertinent law; and
- (c) Notice of the remedies available for review or appeal 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.

.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.

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.11 Public Record Temporarily Unavailable.

If a requested public record of the Town 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 immediately 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 Town 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.

A. If the custodian denies a request to inspect or copy a public record of the Town, the applicant may, within 30 days after receipt of the notice of denial, request an informal administrative hearing.

B. If, after consulting with the Town Attorney, the applicant requests a hearing:

- (1) The hearing shall be conducted by the Mayor or her designee pursuant to any rules of procedure established from time to time by the Town Council; and
- (2) The Mayor shall issue the final decision of the Town unless the Mayor delegates final decision authority.

C. If the hearing results in a total or partial denial of the request, the applicant may file an appropriate action in the circuit court under §10-623 of the Act.

D. If the applicant does not request a hearing, the applicant may file an action for judicial enforcement under §10-623 of the Act without exhausting that administrative remedy.

.14 Disclosure Against Public Interest.

- A. Denial Pending Court Order.

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(1) If, in the opinion of the Mayor, disclosure of a public record of the Town otherwise subject to disclosure under the Act would do substantial injury to the public interest, the custodian may temporarily deny the request in order 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 custodian (or the Mayor) shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.

(2) Notice of the custodian's (or the Mayor'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. 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 photocopying machine within the Town's offices is 35 cents per page.

(b) In addition to compensation for staff time in producing the copies, if applicable, the fee for each copy made otherwise (i.e., by other means, including but not limited to CDROM or cassette tape) shall be \$10.00 per request.

(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 \$2 per page (or if appropriate, per item) shall be charged.

(3) Minimum Fee. No charge will be made if the total fee is \$1 or less.

B. Notwithstanding §A of this regulation, 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 this regulation, the custodian shall charge the prescribed fee.

C. If the custodian cannot copy a public record within the Town's offices, the custodian shall make arrangements for the prompt reproduction of the record at public or private facilities outside the Town's offices. 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.

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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 in writing to pay the cost; or
- (2) Demand prepayment of the cost.

E. Except as provided in §F of this regulation, the custodian may charge a reasonable fee of \$35 per hour for time that an official or employee of the Town spends:

- (1) To search for requested public records; or
- (2) To prepare AND PRODUCTION OF public records for inspection and copying.

F. The custodian may not charge a search or preparation fee as stated in Subparagraph E (i.e., substantially equivalent to the staff person's hourly wages or prorated salary) for the first 2 hours that an official or employee of the Town spends to research, locate and respond to a request for public records.

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.

I. Except as provided herein, the Mayor is authorized to amend or revise the fee schedule established herein by executive order from time to time without the prior consent or approval of the Council. Any amendment to the fee schedule as established herein shall be posted in a conspicuous place in the Municipal Building, published within thirty (30) days in the Town Newsletter, or published in a newspaper of general circulation within the Town. The fees established pursuant to these regulations by the Mayor may be subsequently reviewed, modified or changed by the Council; however, should the Council so modify any fee previously established by the Mayor, an applicant shall not be entitled to any refund except by the sole discretion of the Council.

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.16 Time and Place of Inspection.

A. Except when inspection would interfere with the other duties of the custodian, 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. The custodian may reasonably postpone a request to inspect public records in order to tend to other Town duties that benefit the Town's residents in general.

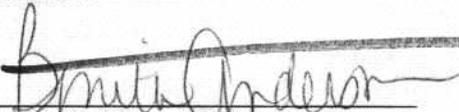
B. The inspection shall occur where the public record is located, unless the custodian, after taking into account the applicant's expressed wish, determines that another place is more suitable and convenient.

Section 2. Effective Date.

BE IT FURTHER RESOLVED, that this Resolution shall take effect December 18, 2013.

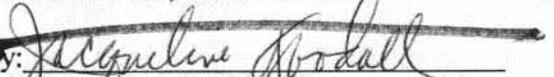
APPROVED: By Resolution of the Town Council of The Town of Forest Heights, Maryland

ATTEST:

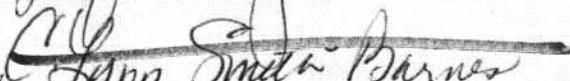


Bonita C. Anderson, Town Clerk

THE MAYOR AND COUNCIL OF THE TOWN OF
FOREST HEIGHTS, MARYLAND

By: 

Jacqueline Goodall, Mayor

By: 

C. Lynn Smith-Barnes, Council President

ROLL CALL VOTE

GOODALL
KENNEDY II
STONER
BARNES
MUHAMMAD
SMITH-BARNES
MANN

YEA/NAY/ABSTAIN/ABSENT

YEA
YEA
ABSTAIN
YEA
NAY
YEA
YEA

CERTIFICATION

I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 18th day of December 2013 with 5 Aye votes and 2 Nay votes the aforesaid Resolution 89-13 passed.



Bonita Anderson, Town Clerk