

## **15. ACCESS TO PUBLIC RECORDS**

### **15.1. Purpose & Authority**

The Coastal Resources Management Council is a public agency subject to the provisions of the Rhode Island Access to Public Records Act (APRA), codified at RIGL 38-2-1, *et seq.*, and these Regulations are being adopted under the authority of that Act. These Regulations are intended to help the public obtain the information they request and to guide the Council staff as they comply with requests.

### **15.2. Public Records Officer**

The person holding the position the Council Deputy Director shall be the Council's Public Records Officer. She or he may be contacted at 4808 Tower Hill Road, Suite 3, Wakefield, RI 02879, Phone (401) 783-3370, Fax (401) 783-3767. [As of January 1, 2013, Jeffrey M. Willis holds the position of Deputy Director.]

### **15.3. What Records Are Public**

**15.3.1. Public Records and Availability** - Under the APRA, all records the Council keeps are presumed to be public unless they are deemed non-public by the Act. The Council shall make all records deemed public by the APRA available to any person that may request them. Such public records include all applications, transcripts, agendas, minutes, reports, documents, papers, letters, maps, books, tapes, photographs, films, recordings and computer stored records made or received pursuant to any law or regulation, or in connection with the transaction of any official Council business, that are not otherwise deemed non-public by the APRA.

**15.3.2. Non-Public Records** - The APRA deems certain personnel, medical, trade secret, investigatory, law enforcement, preliminary drafts, notes, impressions, memoranda, working papers, and other documents non-public and the Council shall not make public any records deemed non-public by the APRA.

### **15.4. How To Make A Request**

**15.4.1. Who To Request Records From** - Requests for public records shall be made to the Public Records Officer.

**15.4.2. Written Requests Preferred** - To help ensure the public obtains the records and/or information they request, to avoid confusion that has arisen in the past, and to ensure public record requests are recognized and handled expeditiously, the Council prefers public records request be made in writing and it may promulgate a form for such requests. The public does not have to use any specific form.

**15.4.3. Requests for Certain Documents** - Although written requests are preferred, consistent with State law and these Regulations, a written request is not required to access the following documents:

- 15.4.3.1. Documents prepared for the public;
- 15.4.3.2. Documents readily available to the public; and

- 15.4.3.3. Public information available pursuant to RIGL 42-35-2<sup>i</sup>, which is a portion of the Administrative Procedures Act.
- 15.4.3.4. Council and Sub-Committee Agendas
- 15.4.3.5. Council and Sub-Committee Minutes
- 15.4.3.6. Council Transcripts
- 15.4.3.7. Council Decisions
- 15.4.3.8. Assents
- 15.4.3.9. Public Hearing Notices
- 15.4.3.10. Public Hearing Minutes
- 15.4.3.11. Public Hearing Transcripts
- 15.4.3.12. Public documents submitted at Council meetings or Public Hearings
- 15.4.3.13. Coastal Program (sometimes referred to as The Red Book)
- 15.4.3.14. Management Procedures
- 15.4.3.15. Council Orders

**15.4.4. Purpose of Request** – The Council may ask the purpose of a request in order to help identify the records requested but it shall not withhold any public records based on the purpose for which the records are sought, nor shall the Council require, as a condition of fulfilling a public records request, that the requestor provide a reason for the request.

**15.4.5. Identity of the Requester** – The Council may request the name and contact information for a person making a request in order to contact them if questions arise regarding their requests and to notify them when records are available. However, except as otherwise noted in these regulations, the Council shall not require a person to identify themselves nor to provide any contact information.

**15.4.6. Identifying Records** - Requestors searching for a particular file or set of records are invited to search the Council website, <http://www.crmc.ri.gov>, to identify the appropriate file number for the records they desire.

**15.4.7. Staff Assistance Identifying Records** - Requestors are encouraged to speak with Council staff to help identify the records they wish to request. [In addition to the Public Records Officer, as of January 1, 2013, the following Council staff can assist requestors: Lisa Turner, Office Manager, [LTurner@crmc.ri.gov](mailto:LTurner@crmc.ri.gov), (401) 783-3370.]

## **15.5. Time for Complying with Requests**

**15.5.1. Time to Comply** - The Council shall endeavor to permit the inspection or copying of public records within ten (10) business days after receiving a request.

**15.5.2. Extensions of Time** - If the Council does not permit the inspection or copying of public records within ten (10) business days, it shall forthwith explain in writing the need for additional time to comply with the request. Any such explanation must be particularized to the specific request made. In such case, the Council may have up to an additional twenty (20) business days to comply with the request if it can demonstrate that the voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the Council.

**15.5.3. Records in Storage or Use** - If a public record requested is in active use or in storage and, therefore, not available at the time access is requested, the Council shall so inform the requestor and make an appointment for the person to examine such records as expeditiously as they may be made available.

**15.5.4. Records Generally Unavailable** - Records that are the subject of a scheduled Council meeting, hearing or workshop will generally be in use by the Council and not available for public inspection the day of the meeting, hearing or workshop.

**15.5.5. Timing of Requests** - The Council shall try to accommodate walk-in requests for readily available records but at least twenty-four (24) hours advance notice is strongly preferred because, among other reasons, the staff person who handles requests may not be available.

## **15.6. Methods of Complying With Requests**

**15.6.1. Inspection During Normal Business Hours** - The Council shall make public records in its possession, custody or control available for inspection during its normal business hours at its office in South Kingstown, Rhode Island. [As of January 1, 2013, those hours are 8:30 AM to 4:00 PM, Monday through Friday.]

**15.6.2. Inspecting Records** - When inspecting records, only one file or set of records at a time will be provided in order to reduce the risk of documents being misplaced.

**15.6.3. Alternate Ways of Inspecting Records** - A requestor may elect to obtain records in any media in which the Council is reasonably capable of providing them. At the election of the requestor, the Council shall provide copies of the public records electronically, by facsimile, or by mail in accordance with the requestor's choice, unless complying with that preference would be unduly burdensome due to the volume of records requested or the costs that would be incurred. The requestor shall be responsible for the actual cost of delivery, if any.

**15.6.4. Form of Records** - The Council shall not be required to reorganize, consolidate, or compile data or records into any form it does not already maintain the data or records in at the time the request to inspect the data or records was made except to the extent that such records are in an electronic format and the Council would not be unduly burdened in providing such data.

**15.6.5. Transcripts** - Requestors who desire a stenographic transcript of the Council proceedings may contact the stenographer directly. [As of January 1, 2013, Irons & Associates is the stenographic firm the Council utilizes. Irons may be contacted at (401) 861-0909.]

**15.6.6. Checking-Out Transcripts** - Requestors who provide their name, a valid government issued identification bearing their name and photograph, and their contact information, may also 'check-out' transcripts, and take them out of the Council's office, for up to 24-hours if the Public Records Officer determines allowing the transcripts to leave the Council office will not interfere with the Council's operations nor present more than a *de minimis* risk of not being returned.

## **15.7. Research and Copying Charges**

**15.7.1. Charges Authorized and Payment Required** - The Council shall assess search, retrieval and copying charges in accordance with these Regulations. Upon request, the Council shall provide an estimate of the costs of responding to a request prior to fulfilling it. Upon request, the Council shall provide a detailed itemization of the costs assessed. The requestor shall pay the charges prior to inspecting or receiving the documents. The Council does not accept cash, credit or debit cards. The Council does accept checks and money orders.

### **15.7.2. Searching & Retrieval Charges -**

- 15.7.2.1. The Council shall not charge for the first hour of time spent searching for and retrieving records.
- 15.7.2.2. The Council shall charge fifteen dollars (\$15.00) per hour for each additional hour, after the first hour, spent searching for and retrieving records.
- 15.7.2.3. For the purposes of these regulations, multiple requests from any person or entity to the Council within a thirty (30) day time period shall be considered one request.
- 15.7.2.4. The Council may charge the reasonable actual cost for retrieving records from storage if it is assessed a retrieval fee.

### **15.7.3. Copying Charges**

- 15.7.3.1. The Council can currently make copies of documents up to 11" x 17".
- 15.7.3.2. The Council shall not charge for the first 5 pages of any copies it makes.
- 15.7.3.3. The Council shall charge \$0.15 cents per page for copies it makes in excess of 5 pages.
- 15.7.3.4. If a requestor desires copies of documents larger than 11" x 17", and the Council can reasonably do so, the Council will bring the oversized documents to a local vendor to make copies and the requestor may then pay the vendor for the copies.
- 15.7.3.5. Requestors who desire copies of documents larger than 11" x 17" contained in pending applications may also request them from the applicant, engineer or attorney involved. Applicants, engineers and attorneys are encouraged to make them available at costs.

## **15.8. Denial of Access**

**15.8.1. Determining What Records Are Public** - Consistent with these Regulations and the APRA, the Public Records Officer shall determine which records are public and which are not.

**15.8.2. Records The Council Does Not Have** - The Council shall inform the requestor if the records requested do not exist or are not within the Council's custody or control.

**15.8.3. Non-Public Records and Redaction** - If a record is deemed non-public pursuant to the APRA or these regulations, any reasonably segregable portion of it shall be available to the public after the deletion of the information which is the basis of its designation as non-public. If an entire record is deemed non-public, the Council shall state in writing that no portion of the record contains reasonable segregable information that is public.

**15.8.4. Denying Access** - If the Public Records Officer determines the requested records, or any part of the requested records, are not public, she or he shall inform the requestor of the specific reasons for the determination, in writing, within ten (10) business days of the request. The writing shall indicate the procedures for appealing the determination.

**15.8.5. Appealing Denials** - In addition to any appeal right contained in the APRA, the requestor may appeal the determination that records are not public to the Council's chief administrative officer. The Council's chief administrative officer is its Executive Director. Such appeals should be in writing. [As of January 1, 2013, the Council Executive Director is Grover Fugate.] The Executive Director shall review the Public Records Officer's determination and make a final determination whether or not to allow public access within ten (10) business days after the submission of the appeal.

## **15.9. Miscellaneous**

**15.9.1. Posting on Web Site & Availability to Public** - The Council's Public Educator and Information Coordinator shall cause a copy of these regulations to be maintained on the Council web site. [As of January 1, 2013, that person is Laura Dwyer.] The Council's Office Manager shall ensure a copy of these regulations is available to the public at the Council's office.

**15.9.2. Disclosures to Attorney General** - The Council's Executive Director shall identify, and then at least annually identify, in writing to the Rhode Island Attorney General, the Council's Public Records Officer and the Executive Director shall annually confirm to the Attorney General that the Public Records Officer has been provided orientation and training regarding the APRA.

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<sup>i</sup> **§ 42-35-2 Public information – Adoption of rules – Availability of rules and orders.**

- (a) In addition to other rule making requirements imposed by law, each agency shall:
- (1) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests;
  - (2) Adopt rules of practice, setting forth the nature and requirements of all formal and informal procedures available, and including a description of all forms and instructions used by the agency;
  - (3) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions;
  - (4) Make available for public inspection all final orders, decisions, and opinions.
- (b) No agency rule, order, or decision is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection as herein required, except that this provision is not applicable in favor of any person or party who has actual knowledge thereof.