

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

AGENCY: DEPARTMENT OF REVENUE

DIVISION: DIVISION OF MUNICIPAL FINANCE

RULE IDENTIFIER: 280-RICR-40-00-3

REGULATION TITLE: Access to Public Records Regulation

RULEMAKING ACTION: Proposed Rulemaking

TYPE OF FILING: Adoption

TIME TABLE FOR ACTION ON THE PROPOSED RULE:

Public notice date: July 10, 2018

End of comment period date: August 15, 2018

Hearing Date: August 1, 2018

SUMMARY OF PROPOSED RULE:

These Rules and Regulations provide the general public with policies and procedures to follow when requesting public records from the Division of Municipal Finance. The proposed adoption is noncontroversial in nature and is being introduced in an effort to comply with the new format as required by the Rhode Island Code of Regulations (RICR).

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by August 15, 2018 to the addresses listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

Mailing Address: Michael Canole
Department of Revenue
One Capitol Hill
Providence, R.I. 02908
Telephone: (401) 574-8729

Email Address: michael.canole@tax.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Department of Revenue
One Capitol Hill
Providence, R.I. 02908

PUBLIC HEARING INFORMATION:

A public hearing will be held as follows:

William E. Powers
Administration Building
One Capitol Hill, Providence, RI 02908
Conference Room B, Second Floor
Date: Wednesday, August 1, 2018
Time: 9:30 a.m.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call (401) 574-8729 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

No societal cost and benefit or cost of compliance as prepared under R.I. Gen. Laws § 42-35-2.9 was determined.

Authority for This Rulemaking: The following rules and regulations concerning access to public record requests are promulgated by the Division of Municipal Finance in accordance with R.I. Gen. Laws § 38-2-1, et seq. and § 42-35-2(a).

Regulatory Findings:

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Adoption:

The Division of Municipal Finance proposes to adopt 280-RICR-40-00-3 as follows:

280-RICR-40-00-3

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 40 – DIVISION OF MUNICIPAL FINANCE

SUBCHAPTER 00 – N/A

PART 3 – Access to Public Records Regulation

3.1 Purposes

A. The Purposes of this Regulation are:

1. To establish a Regulation to implement R.I. Gen. Laws §§ 38-2-1, et seq. and 42-35- 2(a) relating to access to public records maintained by the Division;
2. To provide the public and Division personnel with a Regulation which sets forth the rules and procedures applicable to access to public records maintained by the Division.

3.2 Authority

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ 38-2-1, et seq. (“Access to Public Records”) and 42-35-2(a).

3.3 Application

These rules and regulations shall be liberally construed to permit the Division of Municipal Finance to effectuate the purposes of R.I. Gen. Laws §§ 38-2-1 et seq. and 42-35-2(a).

3.4 Severability

If any provision of these rules and regulation, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

3.5 Policy

The Division recognizes both the public’s right to access public records and the individual’s right to dignity and privacy. It is the Division’s policy to facilitate public access to all public records that may be disclosed in accordance with R.I. Gen. Laws § 38-2-1 et seq. It is also the policy of the Division to make all public records in the Division’s possession be available for public inspection and

copying consistent with applicable state or federal law, unless otherwise prohibited by a court of competent jurisdiction.

3.6 Procedure for Requesting Public Records

- A. Except as provided in § 3.7 of this Part below, a written request to inspect or copy public records should be sent to the Division of Municipal Finance or, in the alternative, to the Division of Legal Services at the Department of Revenue. Written requests may be mailed, hand delivered, e-mailed or sent via facsimile. Hand delivered requests may be made during the Division's regular business hours. It is suggested, but not required, that requests be submitted on the form provided by the Division, which is available at the Division or online at <http://www.municipalfinance.ri.gov>. To assure that the Division can respond to the request as efficiently and as completely as possible, the request should identify and describe the records being requested with as much specificity as possible. A written record of all requests will be maintained within the Division of Municipal Finance.
- B. If the description of records being requested is not sufficient to allow the Division to identify and locate the requested records, the Division will notify the person requesting such records that additional information is needed to properly respond to the request.
- C. Upon receipt of a request for records, the Division will mark on the face of a written request the date the request was received. The Division will permit the inspection or copying of the requested records within ten (10) business days after receiving the written request.
- D. If the inspection or copying is not permitted within ten (10) business days of receipt, the Division shall forthwith explain in writing the need for additional time to comply with the request. In such cases the Division 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 Division.
- E. A written request is not required to be submitted for public information available under R.I. Gen. Laws § 42-35-2 or for other documents prepared for or readily available to the public such as:
1. rules and written statements of policy or interpretations formulated, adopted, or used by the agency; or
 2. final orders, decisions, and opinions;

3. Non-written request for public records are subject to the same timelines as written requests. Reasonable time must be given to locate, copy and send the requested records.

3.7 Hours of Inspections

When a request is made to inspect public records (as opposed to obtain copies), the requester will be advised when the records are available and he/she can then make an appointment to inspect those documents at the Division between the hours of 8:30 a.m. and 3:30 p.m. Monday through Friday. The time frame for the Division to respond to requests to inspect public records is the same as the time frame applicable to responding to requests for copies of public records as set forth above in § 3.6(D) of this Part above.

3.8 Fees

- A. Official publications which the Division prepares in the discharge of its duties to inform the public on matters of public interest will be furnished free of charge when available.
- B. The Division will supply one (1) copy of any of its Rules and Regulations to an individual requesting them free of charge. Rules and Regulations of the Division are on file at the Office of the Secretary of State and certified copies thereof may be obtained from that office. Rules and Regulations of the Division are also available online from the Secretary of State's website.
- C. The Division charges a fee, as provided in R.I. Gen. Laws § 38-2-4, for copying and/or search and retrieval of requested documents consistent with applicable state law. The Division charges \$0.15 per copied page; provided however, if the response to the request consists of twenty (20) or fewer copied pages, no fee will be charged. The Division reserves the right to require a deposit of the estimated costs if the estimated costs are \$50.00 or more.
- D. The cost of copying and search and retrieval as provided in § 3.8(C) of this Part above must be paid in advance of or at the time of delivery or inspection of the requested documents.
- E. Division personnel or, where applicable, an outside copy service, will make copies of requested records. The Division does not have a copy machine available for use by the public to make copies.

3.9 Supervision of Inspections

- A. The inspection of public records must be accomplished in a manner which will provide for general supervision by authorized Divisional staff. This is necessary to prevent the misplacement or unauthorized removal of records or any other action which may impair the integrity of the public record.

- B. Personnel in charge of the Division having possession of the public record requested shall have overall responsibility for the security of the public record. However, the individual in charge of that Division may designate a staff member(s) to coordinate the functions and responsibilities related to the copying and inspection of public records.
- C. All personnel responsible for responding to requests for access to public records shall be made aware, by their supervisors, of the provisions of this regulation and the procedures to be followed when an access to public records request is made. Division personnel having any questions regarding the procedures to be followed should direct inquiries to:
1. The person in charge of the Division or unit within the Division responsible for the activity/function to which the public record being requested relates; or;
 2. In the event that the public record cannot be readily categorized as falling under the responsibility of a specific Division or unit within the Division, the request should be directed to the Division of Legal Services which will serve as a resource in matters relating to the public's access to public records.