



CITY OF TAKOMA PARK, MARYLAND
Office of the City Manager
7500 Maple Avenue
Takoma Park, Maryland 20912

City of Takoma Park Public Notice and Amended Order
Temporarily Suspending the Legal Time Requirements for
Maryland Public Information Act Responses Due to Covid-19 Considerations

1. This notice is given by the City Manager of the City of Takoma Park acting pursuant to the Proclamation of Governor Lawrence J. Hogan, Jr. (the "Governor") dated March 5, 2020 proclaiming a state of emergency and a catastrophic health emergency related to COVID-19, as it may be amended or renewed from time to time, and the Order of the Governor dated March 12, 2020 entitled "Extending Certain Licenses, Permits, Registrations, and Other Governmental Authorizations, and Authorizing Suspension of Legal Time Requirements," as it may be amended from time to time (altogether, "Governor's Order"), after finding that the action(s) described herein will not endanger the public health, welfare, or safety.

2. Due to the Governor's Order, the City Manager of the City of Takoma Park closed City facilities, and also required the majority of City staff to work from home. As a result, most City staff are not physically present to access documents and records subject to a Public Information Act request.

3. The Maryland Public Information Act at Maryland Code, § 4-101 *et seq.*, of the General Provisions Article, which applies to requests for documents and records as opposed to requests for information, contains several specific timelines that may not be able to be satisfied until the state of emergency and catastrophic health emergency specified in the Governor's Order is lifted and City facilities have reopened at least for City staff. These timelines include:

- § 4-203(a) of the General Provisions Article specifies that requests for documents and records must be granted or denied "promptly, but not more than 30 days after receiving the application."
- § 4-203 (b)(1) of the General Provisions Article further requires that public records included in approved applications be provided "not more than 30

days after receipt of the application,” and if the request “reasonably believes that it will take more than 10 working days to produce the public record,” must notify the applicant by that time the amount of time anticipated to produce the public record; (ii) the estimated range of applicable fees; and (iii) the reason for the delay.

- § 4-203(c) of the General Provisions Article requires, for public record applications which are denied, that applicants receive within 10 working days of the application a statement giving the reason for the denial or why the denial is necessary under § 4-343, the legal authority for the denial, a brief description of the undisclosed record, and notice of remedies under the Public Information Act by which the denial can be reviewed.

4. The Governor’s Order authorizes the head of the City government to suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule or regulation that the City administers, upon a finding that such suspension will not endanger the public health, welfare or safety; after notification to the Governor; and contingent upon the provision of public notice. Pursuant to the authority granted to the City Manager under the Charter and Code and confirmed in Uncodified Emergency Ordinance 2020-04, the City Manager has the authority to act in this context.

5. The Governor’s Order has been interpreted to allow political subdivisions of the State to temporarily suspend the Public Information Act’s timelines as they apply to each local government, and I find that this power applies to local governments, including the City, per Section III of the Governor’s Order. I therefore conclude that the City administers its Public Information program in compliance with the Public Information Act. The Governor’s Office has found that each State agency and local government administers its own Public Information program, as does the City. I therefore conclude that the City is considered the local administrator for City compliance with the Public Information Act.

6. I therefore find that due to the Governor’s Order, the closing of City facilities, the lack of presence of City staff at those facilities and the inability of City staff to access documents and records subject to Public Information requests, the City may not be able to comply with the above Public Information Act timelines which the City administers until after the expiration of the state of emergency declared in the Governor’s Order.

7. I further find that the temporary suspension of those timelines that the City administers until after the termination of the state of emergency and rescission of the catastrophic health emergency will not deprive any person of their due process rights.

8. I further find that the temporary suspension of those timelines will not endanger the public health, welfare or safety, as I find that not temporarily suspending those timelines may require numerous City staff members to enter the closed City facilities in order to satisfy Public Information Act requests and may therefore endanger the public health, welfare or safety, given the state of emergency and proclamation of catastrophic health emergency.

9. I finally find that City staff is having to spend significant time providing Covid-19 related help and services to residents and businesses on public health, safety and welfare matters, while working remotely. This additional emergency workload and the challenges of working remotely may make it harder for City staff to attend to PIA matters as quickly as it does under normal circumstances, and on that basis I/ hereby:

ORDER that the applicable timelines under the Maryland Public Information Act, Maryland Code, § 4-203 of the General Provisions Article, as specified herein are, as to their administration by the City of Takoma Park, hereby temporarily suspended for the City of Takoma Park until thirty (30) days after the state of emergency and proclamation of catastrophic health emergency specified in the Governor's Order is lifted, based on my finding that such suspension will not endanger the public health, welfare or safety; and further

ORDER that, during the pendency of the state of emergency and proclamation of catastrophic health emergency specified in the Governor's Order, City staff should continue to respond to requests for documents and records within the existing timelines for responding to requests submitted pursuant to Maryland's Public Information Act unless doing so is practically unreasonable while working remotely, creates a risk to the health, safety, and welfare of City staff or their families, and thereby the community at large, or is otherwise inconsistent with existing Covid – 19 pandemic related orders or guidance issued by the Centers for Disease Control and Prevention, the State of Maryland, Montgomery County, or the City of Takoma Park ; and further

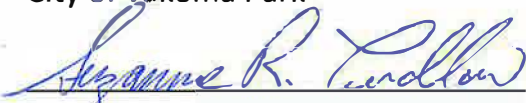
ORDER that during the time period in which this Amended Order is in effect, the City Clerk shall report to the Council at the first meeting or work session following the execution of this Amended Order and then once every thirty (30) days thereafter the following information: the number of Public Information Act Requests received by the City, the number responded to by the City, and the number to which the City has been unable to respond along with the reason for the inability of the City to respond; and further


ORDER that reasonable public notice of this Notice be provided, by posting this Amended Order on the City's website; including this Notice in an email communication to

all residents receiving email notifications from the City and all individuals with open public information requests, and by posting of this Notice at City Hall; and further

ORDER that this Amended Order have no effect until the next business day after the Governor is notified of this Amended Order Suspending for the City the Legal Time Requirements Regarding Maryland Public Information Act Timelines, on which day following such notice to the Governor this Order shall go into effect and shall remain in effect until thirty (30) days after the Governor's Order has been terminated and the state of emergency and proclamation of the catastrophic health emergency therein stated has been rescinded.

City of Takoma Park


Suzanne LUGLOW, City Manager


Date


Witness