



**Ajuntament  
de Barcelona**

Resource Management  
Municipal Archive System Management

# **REGULATIONS FOR ACCESSING MUNICIPAL DOCUMENTS**

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Approved by the Municipal Council Plenary on 25 July 2014.



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## **Preamble**

We recognise the right of citizens to access public information in order to facilitate their participation in public affairs and promote transparency. Consulting documents is also the basis for individual or collective initiatives in defence of the interests of the public. All public powers should be involved when it comes to promoting access to culture and strengthening research.

Barcelona City Council operates active policies in these areas, policies that must adapt or incorporate new methods and, to a certain degree, new aims. Such is the case when it comes to the incorporation of electronic channels for providing services to members of the public. These services should include information, or offering individuals the opportunity to re-use public information for commercial purposes.

These Regulations form part of a set of measures that Barcelona City Council has in place in order to guarantee and govern the right of members of the public to access information, increasing transparency and promoting an open and participatory government. These Regulations particularly take into account state and Catalan legislation on transparency, accessing public information and good government.

Accessing public information and disseminating it must be compatible with the rights of natural persons to have their personal data handled with due care, as well as the protection of other individual rights or those of the public interest. These rights and interests mean that part of the municipal government's documentation is subject to restricted access. The contrast between the obligation to disseminate information and to preserve content and data means that internal procedures must be established, common to the entire municipal government, to evaluate requests to consult certain documents. A similar contrast exists in requests to access documents that form part of our document heritage and the obligation to guarantee the safety and preservation of that heritage. This contrast, again, requires each case and circumstance to be evaluated based particularly on whether the request coincides or connects with activities of collective interest.

These Regulations serves to promote and strengthen the fulfilment of these aims and functions, which it is why it is essential, among other issues, to adopt common criteria and procedures that affect the municipal government as a whole. The scope of these Regulations is therefore general and affects documents being processed and those already classified as being for permanent conservation and archived at the centres that make up the historical archive service. Chapter I of these Regulations is aimed precisely at outlining common, generally applicable guidelines, while the rest of the chapters focus on the functions and services of archive centres.

The articles in Chapters II and III execute the criteria and procedures adopted by the City Council with their approval of the Municipal Archive System Regulations on 29 October



2010 (Barcelona Province Official Bulletin 01/12/2010). Section IV of the aforementioned regulations established the general guidelines that are now finalised and detailed to the degree required to allow archive centres to fulfil their functions, although a certain amount of finalisation is left to the internal regulations of each centre based on their specific characteristics or mission.



## **CHAPTER I. GENERAL PROVISIONS**

### **Article 1. Subject matter and scope of application**

In accordance with the Municipal Archive System Regulations, the object of these regulations is to govern access to documents, regardless of their nature and the format or medium in which they are found, produced or received by the municipal government, as well as documents of private origin that form part of the municipal document heritage and those from any other fonds or collection kept in Municipal Archive System centres.

### **Article 2. Aims**

These Regulations have the following aims:

- a. Establishing the general principles and guidelines that must be followed in response to requests to access documents made by members of the public, guaranteeing their right to access.
- b. Governing the services offered to citizens in order to promote and strengthen their right to access, as well as complementary services or services related to this right, such as making copies.
- c. Promoting the fulfilment of citizens' requirements when it comes to exercising this right, in order to guarantee the public interest, the rights of third parties and the correct storage and safety of documents.

### **Article 3. Definitions**

For the purposes of these regulations, the following is understood by:

- a. Citizen: natural person, private legal person or legal person without personality that relates or may relate to the municipal government.
- b. Communication: any act of disclosure of a document at the prior request of a person or initiative of a municipal government body.
- c. Document: any information, independently of its type or format or the medium on which it is found, created or received by the municipal government whilst performing its functions, and referring or related to its functions, measures, services and competences, that may be identified and handled as a unit.
- d. Restricted document: document affected by a regulation that temporarily restricts the consultation in whole or in part of its contents, given the need to safeguard the public interest or to guarantee third party rights.



e. Special fonds: set of documents from the same origin, with unusual physical and/or intellectual characteristics. Maps, images, drawings or oral sources class as special, among others.

f. Special documents: documents with unusual physical and/or intellectual characteristics. Maps, images, drawings or oral documents class as special, among others.

g. Description instrument: any description or reference tool prepared or received by an archive service in the process of establishing an administrative and intellectual control on documentation.

h. Consultation: request, submitted by a citizen or by a public administration, to access a document.

#### **Article 4. General principles**

1. All citizens have the right to access documents without limitations, other than those established by law. There is no need to provide a reason for the request when it relates to freely available documents. The applicant may, however, include the reasons for which they are requesting information. These reasons must be taken into account when the decision is made. A lack of reason cannot under any circumstance constitute grounds for denying access.

2. Documents still being prepared may not be consulted. In this case, the applicant must be notified of the date from which the document may be consulted. Documents for which general publication is under way may also be excluded from consultation rights. If this applies, the citizen must be notified of the publication date and means. Finally, documents that are merely supplementary, such as drafts or personal annotations that are neither relevant nor of interest to the public and that have no effect on administration activity or procedures, may also not be consulted.

3. The municipal government must make the right to access effective. To this end, it will have active policies to promote exercising this right and will respond to requests in as timely and diligently a manner as possible.

4. Citizens only have their right to access denied in accordance with the legally established limitations. The exceptions to the right to access will be interpreted restrictively in order not to prevent its effective exercise. Application of the limitations will be in proportion to the interest that is protected and will always deal with the circumstances of the specific case, especially the concurrence of a higher public or private interest that would justify access.

5. The place at which documents are kept cannot condition or limit their consultation. Access must be effective also in the case of documents that have not been transferred to archive centres. In this case, those in charge of the bodies at which they are being kept are directly responsible for them, in the scope of their functions, and in fulfilment of the obligation to grant or deny access within the legally established terms.



6. The municipal government will actively collaborate to make access to these documents possible. When a request has been made incorrectly, the errors observed will be communicated to the applicant, pointed out to them so that they may be duly taken care of and the deadlines to correct the aforementioned errors will be indicated, in accordance with the general regulations.

7. Access limitations will be included in the description instrument and other support resources created by the City Council, so that citizens may find out about them before making a request.

8. Consulting documents is free without prejudice to the application, if required, of public charges and fees for copies, which will be charged to the citizen.

### **Article 5. Access by people interested in a procedure**

Interested parties in a procedure will access the documentation that results from this procedure by following the guidelines established in the general regulations on administrative procedures and the local system. When accessing documentation from a distance, Barcelona City Council's Regulatory Byelaw on e-Government, or the subsequent regulations, will be applied.

### **Article 6. Formalising requests**

1. Document requests must be made in writing with the applicant's ID, and must include a postal or email address for notification purposes. The documents requested must be indicated in detail. The degree of detail required in the identification of documents will be in line with the description instruments or other resources available to users.

2. Consultation requests do not need to be justified, except when the applicant requests to consult restricted documents, in which case they will need to give the reasons or circumstances that, according to the applicant, might justify the restriction being lifted.

3. Citizens will be given access to standard forms to make the application process easier. Consultation requests made using documents drawn up by the applicant will also be accepted, provided they comply with the minimum content requirements to enable the request to be met.

4. Consultation application forms will inform users of how their personal data will be handled and of how they can exercise their rights according to data protection legislation.

5. Consulting documents that have been available to the public electronically will not require the citizen to identify themselves. ID may, however, be required in the event that the application is for re-use and in the case of documents affected by intellectual property rights that may condition their use, documents subject to restricted terms or documents affected by other conditions of use.

### **Article 7. Deadlines for response**



1. Responses to requests for access will be notified within a period no greater than twenty working days from the date the request was received. Should the volume or complexity of the information required justify it, this deadline may be extended up to a maximum of ten working days. The applicant will be informed of the extension and the reasons for it before the first deadline expires. In the case of access authorisations, consultation may take place from the date the response was notified.
2. In the case of requests submitted electronically, receipt will be confirmed and the maximum decision period indicated.
3. If access to the information may damage the rights or interests of identified third parties or those who may easily be identified, these interested parties will have a period of ten days to submit any allegations, during which time the decision deadline will be suspended. The applicant will be informed of this procedure.
4. Requests to consult documents held at archive centres in person will be responded to in accordance with the provisions of Article 20.

#### **Article 8. Consultation support**

1. Access to documents must be provided in the material format or medium that the applicant has indicated from those available. Information about the different document access options in different formats will be available in the description instruments or other consultation support resources. As a general criterion, when copies are available, the original is preserved and access to the copy will be provided.
2. In the event of a request to access documents that have been published through publicly accessible channels or media, the response can opt to notify the applicant of the existence of that publication and the way in which or procedure through which they might access it. Consultation of the original documents will not be offered in this case.
3. Original documents will not be available to access when consulting them might pose a threat to their conservation. In this case, the applicant will be offered access to a copy of the document.

#### **Article 9. Access service resources**

1. Barcelona City Council will provide citizens with the resources required to allow available documents to be identified, for the purpose of allowing consultation to be requested. These resources will be accessible electronically and will include references to the units or services responsible for responding to consultation requests.
2. The description of the procedures that must be followed to consult documents, as well as the channels to contact in case of doubt and standard forms, will be made available to the public and will be accessible electronically.





3. Apart from the legal obligations, and as far as possible, Barcelona City Council will make documents most often accessed by citizens electronically available, as well as those that are most relevant for promoting administrative transparency.

### **Article 10. Documents containing personal data**

1. Documents that contain personal data will be communicated within the limitations and under the terms established by general data protection legislation, the regulations on transparency and accessing public information and the municipal regulations approved by Barcelona City Council on these matters.

2. When the information requested does not contain especially protected data, requests will be responded to by first taking into account the interests of the applicant or the interest of the information and provided that knowledge and disclosure of such information are not deemed to damage any protected right.

### **Article 11. Partial access**

1. For the purposes of allowing the right to access to be exercised, documents containing personal data or other data that means consultation is restricted will be handled in such a way as to allow the rest of the information contained therein to be consulted. For this purpose, whenever possible, the restricted information will be removed or redacted. The applicant will be informed of the nature of the documents or data removed and the legal restriction affecting them.

2. Document handling processes do not need to be performed to grant partial access and, as a result, documents will not be made accessible, when these processes involve excessive workload or require disproportionate effort, or when the final result does not provide significant information.

### **Article 12. Consultation restriction terms**

1. In communicating documentation, the access restriction terms established by general regulations will be applied and, where appropriate, specific terms from applicable sector regulations.

2. In general, the legally established exclusions regarding consulting public documents will no longer have effect after thirty years from document production, unless specific legislation provides otherwise.

In the case of documents that form part of a procedure, the thirty year period will be calculated from the procedure resolution date.

3. Also in general, if the documents contain personal data that may affect the safety, honour, privacy or image of



people, as a general rule and unless specific legislation provides otherwise, they may be consulted by the public with the consent of the affected parties or 25 years after their death or, if the date is not known, 50 years after the document was produced.

### **Article 13. Denying access**

1. Responses to access requests that deny access in whole or in part, as well as responses that suggest a different category of access to that which was requested, will be notified in writing, giving the reason. The reason will be based on legally applicable rules.

2. When access is denied, the citizen will be informed of their right to submit an appeal before the competent authority, as well as the opportunity to contact the Municipal Records Access and Appraisal Committee for further information.

Under no circumstances will the intervention of the Municipal Records Access and Appraisal Committee substitute an appropriate appeal, nor does it alter the deadlines for submitting an appeal.

### **Article 14. Requests for the purposes of re-use**

When consultation requests are aimed at re-using municipal government information, the general regulations on re-using public information will be applicable and approved, where appropriate, by Barcelona City Council. In case of doubt in the application of these regulations, requests will be subject to competent municipal authority criteria on re-use.

## **CHAPTER II. ACCESSING ARCHIVE CENTRE DOCUMENTS**

### **Article 15. Accessible sources**

1. Archive centre users may request consultation of all sources in archive centres regardless of their origin or nature. Relationship between sources will be shown in the Fonds Organisation Table, which will be constantly updated.

2. In the case of sources that are considered special due to their type or content, there may be specific rules in place regarding their consultation. The existence of these sources and specific rules relating to them can be found in the centre's general information.

### **Article 16. Consultation support resources**

1. Archive centres will offer specific services to assist and guide users, whether they are accessing documents in person or electronically. Users

may use complementary or support resources such as newspaper archives and auxiliary libraries.



2. Archive centres will provide users with the description instruments they have. Archive centre personnel will assist users in consultation and provide them with information they may find useful, without implying under any circumstances an obligation to perform specific search tasks on behalf of the user.

3. For centres that have a consultation system that requires a prior appointment to be made, users must use this consultation system within the terms and times established by the centre in accordance with approved procedures.

### **Article 17. Users**

1. Anyone over the age of 16 can use archive centre services and facilities.

2. People under the age of 16 may access facilities and use consultation services within the framework of teaching programmes previously agreed or authorised by the centre's management. In exceptional circumstances, the centre's management may authorise access to original documents by those under 16 years old, depending on the type of work they are engaged in.

### **Article 18. Procedure for making a request to archive centres**

1. The general principles indicated in Article 4 will apply to document consultation requests to archive centres.

2. In order to collect statistics or to support their consultation, the user may be asked to give their aim, area or subject of interest. The user shall be informed that provision of this information is optional.

3. When accessing original documents, the applicant shall sign a document to confirm receipt thereof.

### **Article 19. Number of documents consulted**

1. Internal centre rules may establish a maximum number of units that may be consulted each day, a number that will be set depending on the type of unit and the centre's characteristics and services. Applicants must use an order document or slip for each unit they wish to consult.

2. In the case of research projects requiring access to a large number of documents to carry out a simple review or check of details or information, the centre's management may authorise an extension to the maximum number of units that may be requested.

3. The user may only have one document in their work area. The centre management may authorise an increase in the number of units available at their work area, depending



on the nature of the consultation and/or the type of units the user concerned wishes to consult.

### **Article 20. Issuing documents in the reading room**

The maximum issue time for request to consult documents in person will be established at centre facilities, in accordance with the Municipal Archive System's catalogue of services. Each centre will inform its users of the maximum issue time for documents and the times within which requests may be made. The general issue deadline may be extended when documents have to be prepared, such as when parts of documents or details need to be removed. In these cases, the user will be informed of the delay and the reasons for it.

### **Article 21. Consulting restricted documents**

1. The centre's management will send requests for restricted documents to be used for research purposes, submitted by people considered as researchers, to the Municipal Records Access and Appraisal Committee.
2. The interested party will be notified of the response to the access request within a maximum period of one month. Should the request be granted, the documents will be available from the decision date.
3. Consultation authorisations will be valid for six months.

### **Article 22. Consultation for research purposes**

1. Archive centres promote research projects based on consulting their sources.
2. People who request access to archive centre sources who fall into one of the following categories will be considered researchers:
  - a. People who are linked to a research institute and need to access sources to carry out a project promoted by said institute.
  - b. People conducting a research project with funding mainly from public sources.
  - c. People completing a dissertation.
  - d. People working on obtaining a Master's degree, postgraduate qualification or PhD.
3. Researchers may access any centre services or areas reserved for or aimed at this type of activity. They may also request access to restricted documents in accordance with the procedure described in Article 21.
4. People who are conducting work that does not fall into any of the categories listed in point two may ask the Municipal Records Access and

Appraisal Committee (CMAAD) to consider their work as a research project. The request must describe the project aims and methodology, and list the documents they would like to consult. The request may either be sent directly to the CMAAD or to the management



of the archive centre where the documents are stored and a decision will be made within one month. Should the request be granted, no other procedures will need to be completed in order for the applicant to access the documents in question.

### **Article 23. Consultation of sources with no description**

1. Researchers may request information about sources pending description. Following provision of this information, the centre's management may authorise consultation provided it is possible to guarantee adequate conservation, integrity and safety of documents.

2. In the case of documents that are identified with provisional signatures, these signatures will not have to be included in the final description. The relevant description instrument will, however, endeavour to retain proof of them.

### **Article 24. Accessing private records**

Consultation of documents belonging to private sources will be conducted under the terms and conditions established or agreed upon when the documents were obtained or archived, especially regarding consultation restriction terms or intellectual property rights. If no conditions have been established or agreed upon, consultation will be conducted under the terms and conditions applicable to public documents.

### **Article 25. Responsibility for disclosure of restricted information**

When access is authorised to documents with protected data or information of any kind whatsoever, or information relating to third party rights, users will be informed of their liability for misuse thereof. This information will be provided when the documents or their copies are issued. Users must sign the information document to acknowledge they have received it

### **Article 26. User liability in relation to documents**

The user will be liable for any damages or harm to the integrity and conservation of documents to which they have access. They will also be liable for a document's deterioration when it is the result of poor handling or treatment. The order and integrity of documents may not be altered under any circumstances, nor may any action be carried out that may harm them. An enquiry will be opened to establish the seriousness of such incidents and the sanctions to be applied.

### **Article 27. Accessing areas within centres**

The centre's internal rules establish the conditions of use and the security measures for accessing user work areas, particularly the reading room. Access to repositories and



internal work areas is restricted to the centre's own staff or those in service to the centre. The centre's management may authorise access to third parties within the framework of educational programmes or cultural dissemination.

### **Article 28. Consulting documents in danger of deterioration**

Documents warranting special consideration due their high level or interest or heritage value, those in a poor state of conservation and those for which handling may threaten conservation, may not be consulted, in order to guarantee their preservation. Users shall have access to copies. Researchers may, however, request access to the original if it is essential to conducting their research project. The centre's management is responsible for responding to such requests.

### **Article 29. Consulting special documents**

The internal rules of each centre establish the conditions of use of areas and facilities that allow consultation of documents in special formats or media, or documents in danger of deterioration or relating to a fonds with no description.

### **Article 30. Room reservation**

Users may reserve documents in the reading room for up to five days. Reserved documents may be consulted by other users. The internal rules of each centre will specify the number of documents that may be reserved. Room reservation does not apply to valuable documents, any with unique characteristics, special types or special formats.

### **Article 31. Citing documents**

In order to promote research activities, users will be given the guidelines or forms to follow to cite the documents consulted when these are disclosed in the context of research, teaching or dissemination activities.

## **CHAPTER III. COPIES OF ARCHIVE CENTRE DOCUMENTS**

### **Article 32. Copying service general conditions**

1. At the request of users, archive centres will provide copies of documents accessed by them following the procedures and formalities adopted by the centre and applying the approved public charges and fees. Requests must detail the document or documents the user would like copies of and copies will be made by the most appropriate technical means for conservation of the original document.



2. Only technical personnel authorised by archive centres may copy documents. The centre's management may, however, authorise copies to be made by the applicant using their own means.
3. Orders that involve mass or systematic copying of archive centre documents will be governed by means of a specific agreement or contract.
4. Archive centres may issue statements of authenticity for document copies held by the centre to certify the validity of their contents.
5. In the case of document copies to be used in administrative or legal proceedings, only full copies of the document will be made.

### **Article 33. Internal copying**

1. Copying requests made by other municipal government units, areas or members will be governed by the same rules as external requests, except when it comes to applying public charges and fees. The requesting unit may ask that their request be urgently seen to, giving the reasons for and justifying the circumstances that make it necessary.
2. When the copying request referred to in the previous point entails a direct expense for the centre's budget, this expense will be borne by the person making the request.

### **Article 34. Limits or exceptions to copying**

1. Copies of documents affected by intellectual property rights over which the applicant does not have sufficient authorisation or rights may be limited or denied. Although they may not have the rights, copies will be authorised provided that the circumstances or conditions indicated in Articles 31 to 40 bis of the revised text of the Intellectual Property Act (Royal Decree 1/1996) are complied with.
2. In the case of documents sent to a user in application of the access authorisation procedure established in Article 21, the consultation authorisation may indicate that copies are not permitted.
3. Copies of documents will be limited or denied when copying leads to or may lead to deterioration.
4. In exceptional circumstances, the centre's management may deny document copies for reasons other than those mentioned in the previous paragraphs. This refusal must be legally motivated and founded.

### **Article 35. Using copies**

1. The user will be told about any identifying references of documents that have been copied, and must incorporate these references into their disclosure by any means. In the



event that the user partially discloses a document copy or makes other changes thereto, they must clearly indicate they have done so.

2. In the case of documents affected by intellectual property rights, the party requesting copies must respect these rights. At the time of issuing copies, the user will be informed of the existence of rights of this kind and of the liability incurred in the event of illegal use. The user alone will be liable in the event of use in contravention of these rights.

3. When the copies are intended for commercial use, users will be informed of the terms and conditions of use, as well as the regulations and guidelines for re-using information adopted by Barcelona City Council.

### **Article 36. Copies of description instruments**

Description instruments are recognised as databases and the City Council hold the rights over these. Copying of instruments will be governed by the criteria established in Articles 133 to 135 of the revised text of the Intellectual Property Act (Royal Decree 1/1996).

### **Article 37. Copy delivery times**

The maximum copy issue time will be established in accordance with the Municipal Archive System's catalogue of services. Individual delivery times may be established in the case of copies of documents in special formats or types or when the copying process is technically complex.

## **FINAL PROVISIONS**

### **First. Implementation and execution of these Regulations**

In accordance with Article 26.2.d of the Barcelona Municipal Charter, the Mayor's Office is the competent authority to dictate the implementation and execution provisions required by these Regulations.

### **Second. Entry into force**

These regulations come into force four months after publication in the *Official Barcelona Province Gazette* (BOPB).