

# Public Records Inspection, Copying and Transmission Policy

## Village of North Bennington

**PURPOSE.** The Vermont Public Records Act, VSA ss315-320, provides access to a town's public records for inspection and copying unless such records are exempt by law from public access. The Village of North Bennington is authorized under section 316(j) of the Public Records Act to adopt and enforce reasonable rules to prevent disruption of operations in responding to records requests, to preserve the security of public records, and to protect the integrity of the Village's public records.

**APPLICABILITY.** A public record is defined as any written or recorded information, regardless of physical form or characteristic, which is produced or acquired in the course of Village business. Public records, regardless of format, are available for inspection and copying unless there is a specific statute exempting the record from public disclosure. Those records exempt from public inspection and copying are set out in 1 VSA ss317(c).

This policy applies only to requests for public records in the custody of the Custodian of the office of Clerk or Treasurer. Other public records may be in the custody of other officers or employees of the Village of North Bennington.

**DEFINITIONS.** For purposes of this policy, the following words and/or phrases shall apply:

1. "Agency" means an agency, board, committee, department, branch, instrumentality, commission, or authority of any town.
2. "Custodian" means the person that has charge or custody of a public record.
3. "Promptly" means immediately, with little or no delay, and not more than five business days.

**PUBLIC RECORD REQUEST FORM.** Not every public record request will necessitate the use of a written request form. However, when a request is made for a public record that is not readily accessible, may be exempt from public access, or may not exist, the requestor will be asked to complete, but is not required to do so except as stated below, a Public Records Request Form designated by the Custodian. If the requestor declines to complete the Public Records Request Form, the Custodian may complete such form. Where a request is likely to result in charges for copying or staff time, the requestor is required to submit a completed Request Form. The Custodian shall retain the original copy of all requests and written responses (if applicable).

**INSPECTION OF PUBLIC RECORDS.** In response to a request to inspect or copy a record, the Custodian will consult with the requestor if necessary in order to clarify the request or to obtain additional information that will assist the Custodian in responding to the request and in facilitating production of the requested record for inspection or copying. When a requestor seeks a voluminous amount of separate and distinct records, the Custodian may ask the requestor to narrow the scope of the public records request.

Upon receipt of a request to inspect a public record, the Custodian will promptly produce the record for inspection except that:

1. The Custodian will inform the requestor in writing if the record does not exist under the name given by the requestor or by any other name known to the Custodian.

2. If the Custodian withholds the record as exempt from public access, the Custodian will promptly certify this fact in writing to the requestor. The Custodian will identify the record or portion of record withheld, the statutory basis for withholding the record, a brief statement of the reasons and supporting facts for denial and provide the names and titles or positions of each person responsible for denial of the request. The Custodian will also inform the requestor of the right to appeal this determination to the Trustee Chair. It is the policy of the Village of North Bennington that all exempt records be withheld from disclosure.
3. If the record is in active use or in storage and therefore not readily available at the time of request, the Custodian will promptly certify this fact in writing to the requestor and set a date and hour within five business days of the request when the record will be available for inspection.
  - a. For the purpose of this policy, a "business day" is a weekday, Monday through Friday, excluding State, Federal, or local holidays.

The time limits described above may be extended in writing up to ten business days from the receipt of the record request based on:

- b. The need to search for and collect requested records from field facilities or other establishments that are separate from the Village Office; or
- c. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
- d. The need for consultation with the Village attorney or other Village officers or departments having a substantial interest in the determination of the request.

If the time limits described above are extended, the Custodian will inform the requestor of such fact in writing, setting forth the reasons for the extension and specifying the date upon which the Custodian will respond to that request.

The Custodian will not withhold any record in its entirety on the basis that it contains some exempt content if the record is otherwise subject to disclosure; instead, the Custodian will redact the information he or she considers to be exempt and produce the record accompanied by an explanation of the basis for denial of the redacted information.

**PROTECTION OF PUBLIC RECORDS REQUESTED FOR INSPECTION.** In order that all public records in the custody of the Custodian may be protected from damage or loss, such records may only be inspected in locations in the Village office designated by the Custodian. No public record may be removed from a designated location, marked, altered, defaced, torn, damaged, destroyed, disassembled, or removed from its proper location or order. The Custodian or other Village officer or employee may be present during the inspection of a public record. No person shall be allowed to copy a public record using copying equipment other than that owned by the Village unless approved by the Custodian.

When inspection of an electronic record is requested and the inspection of the original electronic record would create a disruption in the operations of the Village or may jeopardize the security or condition of the original record, the Custodian will provide an electronic copy of the original record in the format in which the record is maintained, less any exempt information redacted from the record, at no cost to the requestor.

**COPIES OF PUBLIC RECORDS.** Upon receipt of a request to make a copy of a public record, the Custodian will make and produce a copy subject to the following:

1. **Charges.** Except where otherwise provided by law, the Custodian will charge and collect the following costs for making a copy of a public record:
  - a. The actual cost charge for a copy of a public record as determined by the Village Trustees under 1 VSA ss316(e) or the uniform schedule of charges established by the Secretary of State if the Trustees do not establish a uniform schedule of charges; and
  - b. The cost of staff time associated with complying with a request for a copy of a public record when the time exceeds 30 minutes as that cost is determined by the Trustees under 1 VSA ss316(e) or the uniform schedule of charges established by the Secretary of State if the Trustees do not establish a uniform schedule of charges.

All charges for copies and staff time must be paid in full prior to the delivery of the requested copies. Upon request, the Custodian will provide an estimate of the cost of making a copy of the public record prior to complying with the request.

2. **Standard formats.** The Custodian will make a copy of the public record in the following standard format:
  - a. For any record maintained by the Custodian in paper form, the Custodian will make a paper copy of the record;
  - b. For any public record maintained by the Custodian in electronic form, the Custodian will make either a paper printout of the record or an electronic copy of the record in the format in which the record is maintained, as directed by the requestor.

A request for a copy in a format other than those mentioned above is “non-standard”. The Custodian will not provide a copy of a public record in a non-standard format (e.g., conversion of a paper copy to an electronic format).

**CREATION OF PUBLIC RECORDS.** The Custodian will not create a public record that does not exist.

**TRANSMISSION OF PUBLIC RECORDS.** The Custodian will not transmit a public record.

**DENIAL OF A PUBLIC RECORD REQUEST.** If the Custodian denies a public record request in whole or in part, the denial may be appealed to the Village Trustee Chair. In accordance with 1 VSA ss318(c)(1), the Village Trustee Chair will make a written determination on the appeal within five business days after receipt of the appeal. A decision of the Village Trustee Chair may be reviewable by the Vermont Superior Court pursuant to 1 VSA ss 319.

The foregoing Policy is hereby adopted by the Trustees of the Village of North Bennington, Vermont, this \_\_\_\_\_ day of \_\_\_\_\_.

This Policy is in effect as of this date until amended or repealed.

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Trustee Chair

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