



## **Public Records Inspection, Copying and Transmission Policy**

### **Purpose**

The Vermont Public Records Act, 1 V.S.A. §§ 315-320, provides access to a city's public records for inspection and copying unless the records are exempt by law from public access. The City 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 public records from damage. This Policy is adopted pursuant to section 316(j) and is intended to provide for timely action on requests for public records without unreasonable interruption of operations and to protect the integrity of the City'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 City 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 V.S.A. § 317(c). Other records may be exempt from public inspection and copying pursuant to statutory provisions catalogued by the Office of Legislative Council. See 1 V.S.A. § 317(d).

This Policy applies to records that may be considered public and not covered by exemptions as outlined in 1 V.S.A. § 317(c) or other statutory provisions, which may be in the custody of other officers or employees of the City. This policy also incorporates public records policies or orders that may be developed by individual departments that provide additional detail regarding the records in their control. If a conflict between policies exists, the process outlined in this Policy and the Vermont Public Records Act shall be followed.

This Policy does not apply to requests for public records that reside in the City of Winooski's Municipal Records Vault and are indexed in the City's card catalog of records. These records are open and available for inspection by any member of the public during normal business hours of the City. As such, these records are deemed to be produced and therefore available for inspection upon request. Any member of the public may review, inspect, and make copies of these documents at their time and expense. It shall be the discretion of the Custodian of these records to copy and transmit these documents, even if requested through the process outlined herein. Any person requesting these records will be informed, in writing, that the records are available for inspection, including the process to access these records. Examples of these records include but are not limited to common land records, property surveys, permit information, mortgage deeds, and similar records.

## Definitions

For the 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 the City.
2. "Business Day" means a day that the Custodian's office is open to provide services.
3. "Copy" means the reproduction of a document for distribution in a physical or electronic format.
4. "Custodian" means the person in charge or having custody of a public record.
5. "Promptly" means immediately, with little or no delay, and not more than three business days.
6. "Public Records Agent" means the person designated by the City Council from time to time as the primary contact for all public records requests.
7. "Public Records Request Form" means a form that is created by the City of Winooski and shall be furnished to a requestor in order to memorialize the nature of a public records request. Individual agencies may elect to develop a form specific to the nature of the records that are in their custody.

## Public Records Request Forms

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 City. If the requestor declines to complete the Public Records Request Form, the Custodian shall complete the form to create a record that documents the nature of the request.

Where a request is likely to result in charges for copying and staff time (as outlined below), the requestor is required to submit a completed Public Records Request Form. The Custodian shall retain the original copy of all requests and written responses (if applicable). In lieu of submitting the City's Public Records Request Form, the requestor may provide, in writing, a request that included the same information identified on the City's Public Records Request Form, including a signature of the requestor. All requests for public records shall be transmitted to the Public Records Agent for processing.

## Inspection of Public Records

In responding 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(s) 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; or was not created during the timeframe identified on the request.
2. If the Custodian withholds the record as exempt from public access, the Custodian will promptly certify this act in writing to the requestor. The Custodian will identify the record or portion of the 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 City Manager. It is the policy of the City of Winooski that all exempt records will be withheld from disclosure.
3. If the record is in active use or in storage and therefore not readily available at the time of the request, the Custodian will promptly certify this fact in writing to the requestor and set a date and hour within one calendar week of the request when the record will be available for inspection.

The time limits described in this policy (except as it relates to appeals) may be extended in writing up to ten business days from receipt of the records request based on:

1. The need to search for and collect requested records from field facilities or other establishments that are separate from the Municipal Office; or
2. 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
3. The need for consultation with the City attorney or other City officials 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 the 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 to ensure 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 City Hall or other Municipal Building as 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 staff person 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 maintained by the City of Winooski 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 City of Winooski or would 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. The requestor will be charged specific fees for these records as outlined herein.

## 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 well as the cost of mailing or transmitting the record, as determined by the City Council and included in the City of Winooski's Municipal Code, Chapter 28 – Fees; and
  - b. The cost of staff time associated with complying with a request, if complying with the request requires more than 30 minutes, as determined by the City Council and included in the City of Winooski's Municipal Code, Chapter 28 – Fees; or the uniform schedule of charges established by the Secretary of State if the City Council has not established a records request fee for staff time.
  - c. Financial assistance for fees associated with copying or transmitting public records may be available through the City of Winooski's Scholarship Policy and Scholarship Procedure for qualifying requestors.

All charges for copies and staff time must be paid in full prior to delivery of the requested copies. The Custodian will provide an estimate of the cost of making a copy of a public record (including staff time if applicable) prior to complying with the request. The requestor shall provide written agreement to pay any applicable fees prior to copies of documents being created.



2. **Standard Formats.** Except where otherwise provided by law, the Custodian will charge and collect the following costs for making a copy of a public record:
- a. For any public record maintained by the Custodian in paper form, the Custodian will make a paper copy of the record. Alternatively, the Custodian may scan the paper document using standard equipment maintained on-site by the City for electronic transmission if requested.
  - b. For any public record maintained by the Custodian in electronic form, the Custodian may make a paper copy of the record or maintain the record in a non- editable electronic form if requested. If the electronic record is in a format that will render the copy unreasonably difficult to read or interpret if made into a paper copy (e.g. large-format engineered drawings printed on letter sized paper), an electronic version may be provided at the Custodian's discretion.
  - c. If an electronic record is transmitted, the requestor shall provide the Custodian with acknowledgement of receipt of the document(s).

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. large format paper or printed documents that cannot be reproduced on-site).

**Creation Of Public Records.** The Custodian will not create a public record that does not exist.

**Transmission of Public Records.** The Custodian, upon request, may transmit public records in a manner agreed upon by the Custodian and the requestor. Payment of the public records, if applicable, must be received prior to transmission of the public records. Any public records, not being transmitted, that have been duly copied and paid for shall be picked up at City Hall during normal business hours.

**Denial of a Public Records Request.** If the Custodian denies a public record request in whole or in part, the denial may be appealed to the City Manager. In accordance with 1 V.S.A. §318(c)(1), the City Manager will make a written determination on the appeal within five business days after receipt of the appeal. A decision of the City Manager may be reviewed by the Vermont Superior Court pursuant to 1 V.S.A. § 319.

If the City Manager is the Custodian of the public records that have been denied in whole or in part, this decision may be appealed the Vermont Superior Court pursuant to 1 V.S.A. § 319.