

# *City of Barre, Vermont*

*“Granite Center of the World”*

## **CITY COUNCIL POLICY ON ACCESS TO PUBLIC RECORDS**

### **PURPOSES**

Pursuant to section 307 of the Barre City Charter, the Council establishes this policy 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 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.

### **RELATED STATUTES:**

Access to public records is protected by 1 V.S.A § 315 et seq.

### **PERSONS AFFECTED:**

[List parties affected by or having responsibility over the policy]

1. City Clerk (City records custodian) & office staff
2. Department heads and office staff
3. Those requesting to inspect or receive copies of City records

### **APPLICATION**

1. Effective date: This policy will become effective upon adoption.
2. Applicability: This policy will apply to public records, 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.
3. Exemptions/Exclusions: Records exempt from public inspection and copying are set out at 1 V.S.A. § 317(c).

### **POLICY & PROCEDURE**

**PUBLIC RECORD REQUESTS** The City prefers public records requests be made in writing for clarity of what is being requested, however written requests are not required by statute.

**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 for inspection or copying. When a requestor seeks a voluminous amount of separate and distinct records, the Custodian may ask the

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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 within three (3) business days 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 inform the requestor of this fact in writing within three (3) business days from receipt of the request. The Custodian will identify the record or portion of record withheld, the statutory basis for withholding the record, and a brief statement of the reasons and supporting facts for denial.

The Custodian will inform the requestor of the right to appeal this determination to the City Manager. It is the policy of the city that all exempt records as per 1 V.S.A. § 317(c) will be withheld from disclosure.

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 considered to be exempt and produce the record accompanied by an explanation of the basis for the redaction.

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 inform the requestor of this fact in writing within three (3) business days, and set a date and hour within one (1) calendar week of the request when the record will be available for inspection.

The time limits described above may be extended in writing up to ten (10) business days from receipt of the records request based on:

- a. The need to search for and collect requested records from other offices and/or storage that are separate from the office that has custody of the requested records; or
- b. 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
- c. The need for consultation with the city attorney or other city 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 the request.

**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 city offices 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 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 owned by the city 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 operations of the city 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, 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 city fee schedule as determined by the City Council under 1 V.S.A. § 316(e) or the uniform schedule of charges established by the Secretary of State if the City Council has not adopted a specific fee; 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 City Council under 1 V.S.A. § 316(e), or the uniform schedule of charges established by the Secretary of State if the City Council fails to establish a uniform schedule of charges.

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

2. **Standard formats.** The Custodian will make a copy of a public record in the following standard format:
  - a. For any public 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 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.

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A request for a copy in a format other than those mentioned above is “non-standard.” The Custodian may provide a copy of a public record in a non-standard format (e.g., conversion of a paper public record to electronic format), but is not required by law to do so.

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

**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 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 reviewable by the Vermont Superior Court pursuant to 1 V.S.A. § 319.

**DEFINITIONS:** As used in this policy, the following have these meanings.

1. **AGENCY** means an agency, board, committee, department, branch, instrumentality, commission, or authority of the city.
2. **CUSTODIAN** means the person that has charge or custody of a public record.
3. **BUSINESS DAY** means a day the Custodian’s office is open to provide services to the public.

#### **REFERENCE**

- Adopted by City Council on March 28, 2017

Last revised and adopted this 7<sup>th</sup> day of December, 2021, as certified by the City Clerk



Carolyn S. Dawes