

Town of Charlestown, NH
Board of Selectmen
RSA 91-A (Right-to-Know) Procedures
For Governmental Records Requests

(Effective December 15, 2021)

A. Authority

- NH Constitution- [Art.] 8. [Accountability of Magistrates and Officers; Public's Right to Know.] All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them. Government, therefore, should be open, accessible, accountable and responsive. To that end, the public's right of access to governmental proceedings and records shall not be unreasonably restricted.

June 2, 1784

Amended 1976 by providing right of access to governmental proceedings and records.

- RSA Chapter 91-A

B. Purpose

To provide access to government information and records retained by the Town of Charlestown to the greatest extent authorized and permitted by RSA 91-A and not exempt or excluded from disclosure by state law and rulings of the New Hampshire Supreme Court.

C. Administration

Responses to all requests for governmental records shall be administered and coordinated through the Selectboard Administrator.

D. Basic Principles

- The public has the right to inspect, during regular business hours, all public governmental records and to request copies of such records, except for those records that are not readily available at the time of the request or that are expressly exempted by law;
- The public does not have to offer a reason for the request for information;
- The request for information does not have to cite to RSA 91-A and is not required to be in writing;
- The request must reasonably describe the information or record being requested;
- The Town will not create documents that it does not keep in the normal course of business or compile data or create a record in a specific format requested, including electronic format; however, the Town may create a report from an existing database if reasonably

possible and/or if necessary to prevent disclosure of such information that is otherwise exempt from disclosure;

- If the original form of information requested is in an electronic format, or if the information is retained in an electronic format, even if that is not the original form of the information, the Town will provide the information in electronic format, *if so requested*.
- Records that are exempt from public disclosure are identified in various statutes in addition to RSA Chapter 91-A, as well as in various opinions of the New Hampshire Supreme Court. Such records generally include personnel records, medical, welfare, library users, vital records, financial information, union negotiations, real estate negotiations, police or emergency response and security information, or any other confidential record that would constitute an invasion of privacy or jeopardize the safety or security of an individual.
- When a requested record is not immediately available for inspection, the record will be made available within 5 business days of the request, OR the request may be denied with written reasons cited, OR written acknowledgement of the request may be provided to the requestor stating the reasonable time necessary to determine whether the request will be granted or denied.

E. Procedure

1. Coordination of Requests

All requests for governmental records should be referred or forwarded to the Selectboard Administrator.

Verbal and In-Person Requests

All persons making in-person verbal requests for governmental records will be asked to furnish a signed, dated written request, including contact information. If the requestor refuses to put the request in writing, the Town official/employee receiving the request should write down the records requested, note the date the request is received and contact information of the person, and either read back or ask the person to read back the request to confirm accuracy. The Town official/employee should then sign and date the request and forward it to the Selectboard Administrator.

Requestors may decline to put a request in writing. The purpose of asking for requests in writing is to ensure that the information provided is responsive to the request and to confirm that the Town is replying within the 5 business days required by RSA 91-A.

Written Requests Received In-Hand, by Mail or Electronically

All written requests delivered to any Town official/employee/department should be date stamped and initialed upon receipt and forwarded to the Selectboard Administrator. If received and forwarded electronically, the Town official/employee forwarding the request should indicate when the electronic transmission was actually received/opened by the Town.

2. Responses to Requests

If a governmental record is requested in person by an individual, or by an agent for an individual or business entity, from a Town department, and is readily available (*e.g.* meeting minutes), the Selectboard Administrator may instruct staff in any department to process the request administratively and charge the appropriate fee for any copies made (see below).

Town employees may ask the requestor to make an appointment to inspect the record if the record is temporarily unavailable or if the staff having custody of the record is unavailable to respond immediately to the request. If the requested record is potentially exempt from disclosure to the public or if the information is not readily available, the Selectboard Administrator will coordinate the response directly with the requestor.

All records requested must be reviewed prior to release or inspection to ensure that all exempt information has been removed from the records to be released or inspected. Such information includes documents exempt from disclosure under RSA 91-A:5, such as personnel records, medical, welfare, library users, vital records, financial information, union negotiations, real estate negotiations, police or emergency response and security information, or any other confidential record that would constitute an invasion of privacy or jeopardize the safety or security of an individual, as well as records pertaining to attorney correspondence and/or notes.

Requested records will be produced in the format that is most convenient for the Town to respond in a manner that does not reveal exempt information. The Town will not compile or assemble records or information into a new format if that is not the format in which the information has been retained. However, if the record is retained in electronic format, it may be provided electronically, if so requested.

Information provided in an electronic format is to be provided ONLY on a USB flash drive in its original packaging provided by the requestor, or on a USB flash drive provided by the Town at the actual cost of the drive. The USB flash drive may be picked up in person or mailed to the requestor.

All fees, including actual photocopying and postage, if the information is provided by U.S. mail, or USB flash drive, if provided by the Town, must be paid prior to the release of records.

The Town will accept and respond to governmental records requests from out-of-state persons, although it is not required to do so by law. This is based on the holding of the U.S. Supreme Court in *McBurney v. Young*, 133 S. Ct. 1709, 185 L. Ed. 2d 758, 41 Med. L. Rptr. 1669 (2013). The Selectboard reserves the right to amend this policy.

3. Records Inspection

If the requestor indicates he or she would like to review documents prior to deciding if copies will be requested, he or she must schedule an appointment at a mutually convenient time so the records can be assembled in one location for review.

A Town employee must be present at all times during records inspection. Inspected records must be retained in order during any inspection. Documents requested to be copied should be tabbed

for later copying. No marks, erasure or other changes to the public record inspected are permitted. Due to the risk of damage to documents, use of ink is not permitted during any inspection. The requestor inspecting the public record shall use pencil if taking any notes.

Requestors may use hand-held scanners or camera to copy or photograph public records unless Town staff determines the items to be scanned are fragile, exceptionally valuable, one of a kind, historically significant or too large to scan safely. In these cases, copying will be performed by Town staff.

4. Fees and Other Charges

Fees for providing responses to requests for governmental records will be charged according to the actual costs incurred by the Town in providing the copies, including copy costs of \$0.50 per page, costs of postage, and costs of USB flash drive(s). There will be no charge for scanning of records unless the record cannot be scanned in the Town office.

All fees and costs must be paid in advance, prior to the release of any records.

For Additional Reference: <https://www.doj.nh.gov/civil/documents/right-to-know.pdf>