

Chapter 16
RECORDS, VILLAGE

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[HISTORY: Adopted by the Board of Trustees of the Village of Champlain 6-12-1995 as L.L. No. 2-1995.¹ Amendments noted where applicable.]

ARTICLE I
Public Access

§ 16-1. Purpose.

The purpose of this Article is to set forth the methods and procedures governing the availability, location and nature of those records of the Village of Champlain subject to the provisions of Article 6 of the Public Officers Law, known as the "Freedom of Information Law".

§ 16-2. Records inaccessible to the public.

A. The following records, pursuant to town and state law, are not accessible to the public:

1. Editor's Note: This local law also provided for the repeal of former Chapter 16, Records, Retention, adopted 11-9-1992.

- (1) Those which are specifically exempted from disclosure by state or federal statute.
 - (2) Those which, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of Subdivision 2 of § 89 of the Public Officers Law.
 - (3) Those which, if disclosed, would impair present or imminent contract awards or collective bargaining negotiations.
 - (4) Those which are trade secrets or are maintained for the regulation of commercial enterprise which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise.
 - (5) Those which are compiled for law enforcement purposes and which, if disclosed, would:
 - (a) Interfere with law enforcement investigations or judicial proceedings;
 - (b) Deprive a person of a right to a fair trial or impartial adjudication;
 - (c) Identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - (d) Reveal criminal investigative techniques or procedures, except routing techniques and procedures.
 - (6) Those which, if disclosed, would endanger the life or safety of any person.
 - (7) Those which are interagency or intraagency materials which are not:
 - (a) Statistical or factual tabulations or data;
 - (b) Instructions to staff that affect the public;
 - (c) Final agency policy or determinations; or
 - (d) External audits, including but not limited to audits performed by the Comptroller and the federal government.
 - (8) Those which are examination questions or answers which are requested prior to the final administration of such questions.
 - (9) Those which are computer access codes.
- B. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 16-3. Designation of records access officer.

- A. The Board of Trustees is responsible for ensuring compliance with the regulations herein and designates the following person as records access officer: the Village Clerk.
- B. The records access officer is responsible for ensuring appropriate response to public request for access to records pursuant to the provisions of the Freedom of Information Law. The designation of the records access officer shall not be construed to prohibit

officials who have, in the past, been authorized to make records or information available to the public from continuing to do so.

§ 16-4. Location of records.

Records shall be available for public inspection and copying at the Village Offices, 1104 Route 9 (Main St.), Champlain, N.Y.

§ 16-5. Hours for public inspection.

Requests for public access to records shall be accepted and records shall be produced during normal business hours that the village office is open.

§ 16-6. Procedures for request.

- A. A written request is required.
- B. A response shall be given regarding any request reasonably describing the record or records sought within five business days of receipt of the request.
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the records sought within five business days of receipt of a request, he/she or she shall furnish a written acknowledgement of the receipt of the request and a statement of the approximate date the request will be granted or denied. If access to records is neither granted or denied within 10 business days after the date of acknowledgement of receipt of a request, such failure may be construed as a denial of access that may be appealed.

§ 16-7. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 16-8. Fees.

The fee for copies of records shall be \$0.25 per page or the maximum fee permitted under the Freedom of Information Law as it may from time to time be amended. The fees for other types of copies or transcripts and for certificates shall be a reasonable amount as the records

access officer shall establish. The fees charged by the records access officer for records shall not exceed the actual cost of reproducing such record, except when a different fee is otherwise prescribed by law.

§ 16-9. Grant or denial of access records; appeals.

- A. Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.
- B. If requested records are not provided promptly as required in § 16-6D of these regulations, such failure shall also be deemed a denial of access.
- C. The following persons or body shall hear appeals from denial of access to records under the Freedom of Information Law: The Board of Trustees of the Village of Champlain, New York (518) 298-4152.
- D. The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of written appeal identifying:
 - (1) The date of the appeal.
 - (2) The date and location of the request for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 16-6D.
 - (5) The name and return address of the requester.
- E. The individual or body designated to hear appeals shall inform the requester of its decision, in writing, within 10 business days of receipt of an appeal.
- F. The person or body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government, Department of State, 162 Washington Avenue, Albany, New York 12231.
- G. The person or body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination, in writing, within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in Subsection F of this section.

§ 16-10. Public notice.

A notice containing the title or name and business address of the records access officers and appeals person or body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

ARTICLE II

Records Retention**§ 16-11. Adoption of schedule by reference.**

Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law and containing legal minimum retention periods for municipal government records is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

§ 16-12. Minimum retention period; criteria for disposal.

In accordance with Article 57-A:

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed herein.
- B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.

ARTICLE III

Records Management**§ 16-13. Definitions.**

As used in this Article, the following terms shall have the meanings indicated:

ARCHIVES — Those official records which have been determined by the records management officer and Records Advisory Board to have sufficient historical or other value to warrant their continued preservation by the local government.

RECORDS — Any documents, books, papers, photographs, microfilm or any other materials, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official Village of Champlain business.

RECORDS CENTER — A central storage area maintained by the records management officer for the storage, servicing, security and processing of records which must be preserved for varying periods of time.

RECORDS DISPOSITION —

- A. The removal by the Village of Champlain, in accordance with approved records control schedules, of records no longer necessary for the conduct of business by such agency through removal methods which may include:
 - (1) The disposal of temporary records by destruction or donation.
 - (2) The transfer of records to the record center for records with scheduled retention periods or permanent storage of records determined to have historical or other sufficient value warranting continued preservation.

B. The transfer of records from one village agency to another village agency.

RECORDS MANAGEMENT — The planning, controlling, directing, organizing, training, promotion and other managerial activities involved in records creation, records maintenance and use and records disposition, including records preservation, records disposal and records centers or other storage facilities.

SERVICING — Making information in records available to any Village of Champlain department for official use or to the public.

§ 16-14. Program established; records officer.

There shall be a records management program established under the aegis of the Village Board of Trustees and headed by a records management officer (RMO). The officer will be responsible for administering the active, inactive, archival records and storage areas for the Village of Champlain in accordance with local, state and federal laws and guidelines.

§ 16-15. Powers and duties.

The records management officer shall have all the necessary powers to carry out the efficient administration and determination of value, use, preservation, storage and disposition of the inactive and archival records kept, filed or received by the offices and departments of the Village of Champlain. The records management officer shall:

- A. Continually survey and examine public records to recommend their classification so as to determine the most suitable methods to be used for the maintaining, storing and servicing of archival material:
 - (1) Active retention: records not yet subject to disposition according to state law;
 - (2) Archival retention: information containing administrative, legal, fiscal, research, historical or educational value which warrants their permanent retention; or
 - (3) Disposition: records deemed obsolete and unnecessary according to New York State records retention and disposition schedules, are subject to disposition;
- B. Establish guidelines for proper records management in any department of the Village of Champlain in accordance with local, state and federal laws and guidelines.
- C. Report annually to the chief executive official and the governing body on the powers and duties herein mentioned, including but not limited to the progress of programs to date, planned activities for subsequent years and cost/benefit ratio of programs effectuated by the department.
- D. Operate a records management center for the storage, processing and servicing of all inactive and archival records for all Village of Champlain departments.

§ 16-16. Records Advisory Board established; duties.

There shall be a Records Advisory Board designated to work closely with and provide advice to the records management officer. The Board shall consist of the local government's counsel,

the chief executive officer and the local government's historian. The Board shall meet periodically and have the following duties:

- A. Provide advice to the records management officer on the development of the records management program.
- B. Review the performance of the program on an ongoing basis and propose changes and improvements.
- C. Review retention periods proposed by the records management officer for records not covered by state archives schedules.
- D. Provide advice on the appraisal of records for archival value and be the final sign-off entity as to what is or is not archival.

§ 16-17. Custody of records; removal.

- A. Active. The originating department has full custody (legal and physical) over records still in active use.
- B. Inactive. The Village Board of Trustees is the legal custodian of its records and shall retain custody of records deposited in the records center. The RMO will have physical custody of inactive records and will determine the method and design of storage.
- C. Archival. Records transferred to or acquired by the archives shall be under the custody and control of the archives, rather than the department which created or held them immediately prior to being transferred to the archives.
 - (1) Records shall be transferred to the records center upon the recommendation of the RMO, with the approval of the head of the department which has custody of the records.
 - (2) Records may be permanently removed from the records center at the request of the RMO and the head of the department which had custody of the records immediately prior to the transfer of those records to the records center, subject to the approval of the Records Advisory Board.

§ 16-18. Disposal of records.

- A. No records shall be destroyed or otherwise disposed of by a department of the Village of Champlain until it has met the time limit on the Records Retention and Disposition Schedule MU-1² and authorization has been obtained from the records management officer. No records shall be destroyed or otherwise disposed of by the records management officer without the consent of the Records Advisory Board. Following required consent and prior to actual destruction, the RMO will allow the Village Historian to review and/or remove any single document or sampling of documents that are of no historical value to the village.

2. Editor's Note: See Article II of this chapter, Records Retention.

- B. All records authorized for destruction will either be shredded or burned. The records management officer will oversee the destruction of all records.

§ 16-19. Replevin.

The legal department may take steps to recover local department records which have been alienated from proper custody and may, when necessary, institute actions of replevin.