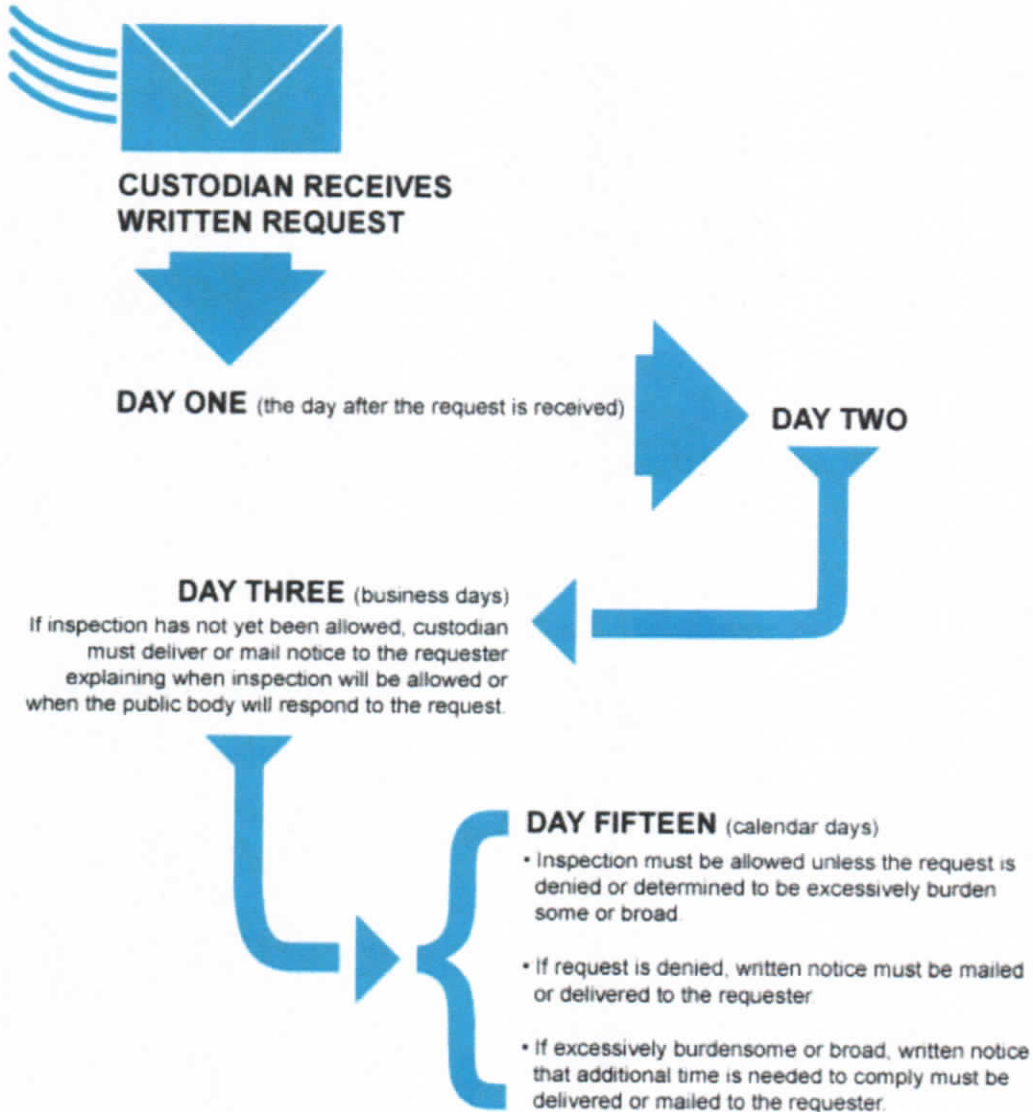


# Appendix I

## DEADLINES APPLICABLE TO THE INSPECTION OF PUBLIC RECORDS



## II. Inspection of Public Records Act

### 14-2-1. Right to Inspect Public Records; Exceptions.

- A. Every person has a right to inspect public records of this state except:
- (1) records pertaining to physical or mental examinations and medical treatment of persons confined to any institution;
  - (2) letters of reference concerning employment, licensing or permits;
  - (3) letters or memorandums which are matters of opinion in personnel files or students' cumulative files;
  - (4) law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime. Law enforcement records include evidence in any form received or compiled in connection with any criminal investigation or prosecution by any law enforcement or prosecuting agency, including inactive matters or closed investigations to the extent that they contain the information listed above;
  - (5) as provided by the Confidential Materials Act;
  - (6) trade secrets, attorney-client privileged information and long-range or strategic business plans of public hospitals discussed in a properly closed meeting;
  - (7) tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to

facilitate the planning or execution of a terrorist attack; and

(8) as otherwise provided by law.

- B. Protected personal identifier information contained in public records may be redacted by a public body before inspection or copying of a record. The presence of protected personal identifier information on a record does not exempt the record from inspection. Unredacted records that contain protected personal identifier information shall not be made available on publicly accessible web sites operated by or managed on behalf of a public body.

### 14-2-4. Short Title.

Chapter 14, Article 2 NMSA 1978 may be cited as the "Inspection of Public Records Act".

### 14-2-5. Purpose of Act; Declaration of Public Policy.

Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act is to ensure, and it is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the legislature, and it is declared to be the public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.

### 14-2-6. Definitions.

As used in the Inspection of Public Records Act:

- A. "custodian" means any person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control;
- B. "file format" means the internal structure of an electronic file that defines the way it is stored and used;
- C. "inspect" means to review all public records that are not excluded in Section 14-2-1 NMSA 1978;
- D. "person" means any individual, corporation, partnership, firm, association or entity;
- E. "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education; and
- F. "public records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained.

[Uncodified] "protected personal identifier information" means:

- (1) all but the last four digits of a:
  - (a) taxpayer identification number;
  - (b) financial account number; or
  - (c) driver's license number;

(2) all but the year of a person's date of birth; and

(3) a social security number.

14-2-7. Designation of Custodian; Duties.

Each public body shall designate at least one custodian of public records who shall:

- A. receive requests, including electronic mail or facsimile, to inspect public records;
- B. respond to requests in the same medium, electronic or paper, in which the request was made in addition to any other medium that the custodian deems appropriate;
- C. provide proper and reasonable opportunities to inspect public records;
- D. provide reasonable facilities to make or furnish copies of the public records during usual business hours; and
- E. post in a conspicuous location at the administrative office, and on the publicly available website, if any, of each public body a notice describing:
  - (1) the right of a person to inspect a public body's records;
  - (2) procedures for requesting inspection of public records, including the contact information for the custodian of public records;
  - (3) procedures for requesting copies of public records;
  - (4) reasonable fees for copying public records; and
  - (5) the responsibility of a public body to make available public records for inspection.

**14-2-8. Procedure for Requesting Records.**

- A. Any person wishing to inspect public records may submit an oral or written request to the custodian. However, the procedures set forth in this section shall be in response to a written request. The failure to respond to an oral request shall not subject the custodian to any penalty.
- B. Nothing in the Inspection of Public Records Act shall be construed to require a public body to create a public record.
- C. A written request shall provide the name, address and telephone number of the person seeking access to the records and shall identify the records sought with reasonable particularity. No person requesting records shall be required to state the reason for inspecting the records.
- D. A custodian receiving a written request shall permit the inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen days after receiving a written request. If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the request. The three-day period shall not begin until the written request is delivered to the office of the custodian.
- E. In the event that a written request is not made to the custodian having possession of or responsibility for the public records requested, the person receiving the request shall promptly forward the request to the custodian of the requested public records, if known, and notify the requester. The notification to the requester shall state the reason for the absence of the records from that person's custody or control, the records' location and the name and address of the custodian.

- F. For the purpose of this section, "written request" includes an electronic communication, including email or facsimile, provided that the request complies with the requirements of Subsection C of this section.

**14-2-9. Procedure for Inspection.**

- A. Requested public records containing information that is exempt and nonexempt from disclosure shall be separated by the custodian prior to inspection, and the nonexempt information shall be made available for inspection. If necessary to preserve the integrity of computer data or the confidentiality of exempt information contained in a database, a partial printout of data containing public records or information may be furnished in lieu of an entire database. Exempt information in an electronic document shall be removed along with the corresponding metadata prior to disclosure by utilizing methods or redaction tools that prevent the recovery of exempt information from a redacted electronic document.
- B. A custodian shall provide a copy of a public record in electronic format if the public record is available in electronic format and an electronic copy is specifically requested. However, a custodian is only required to provide the electronic record in the file format in which it exists at the time of the request.
- C. A custodian:
  - (1) may charge reasonable fees for copying the public records, unless a different fee is otherwise prescribed by law;
  - (2) shall not charge fees in excess of one dollar (\$1.00) per printed page for documents eleven inches by seventeen inches in size or smaller;

- (3) may charge the actual costs associated with downloading copies of public records to a computer disk or storage device, including the actual cost of the computer disk or storage device;
- (4) may charge the actual costs associated with transmitting copies of public records by mail, electronic mail or facsimile;
- (5) may require advance payment of the fees before making copies of public records;
- (6) shall not charge a fee for the cost of determining whether any public record is subject to disclosure; and
- (7) shall provide a receipt upon request.

**D. Nothing in this section regarding the provision of public data in electronic format shall limit the ability of the custodian to engage in the sale of data as authorized by Section 14-3-15.1 NMSA 1978, including imposing reasonable restrictions on the use of the database and the payment of a royalty or other consideration.**

#### **14-2-10. Procedure for Excessively Burdensome or Broad Requests.**

If a custodian determines that a written request is excessively burdensome or broad, an additional reasonable period of time shall be allowed to comply with the request. The custodian shall provide written notification to the requester within fifteen days of receipt of the request that additional time will be needed to respond to the written request. The requester may deem the request denied and may pursue the remedies available pursuant to the Inspection of Public Records Act if the custodian does not permit the records to be inspected in a reasonable period of time.

#### **14-2-11. Procedure for Denied Requests.**

- A. Unless a written request has been determined to be excessively burdensome or broad, a written request for inspection of public records that has not been permitted within fifteen days of receipt by the office of the custodian may be deemed denied. The person requesting the public records may pursue the remedies provided in the Inspection of Public Records Act.
- B. If a written request has been denied, the custodian shall provide the requester with a written explanation of the denial. The written denial shall:

- (1) describe the records sought;
- (2) set forth the names and titles or positions of each person responsible for the denial; and
- (3) be delivered or mailed to the person requesting the records within fifteen days after the request for inspection was received.

- C. A custodian who does not deliver or mail a written explanation of denial within fifteen days after receipt of a written request for inspection is subject to an action to enforce the provisions of the Inspection of Public Records Act and the requester may be awarded damages. Damages shall:

- (1) be awarded if the failure to provide a timely explanation of denial is determined to be unreasonable;
- (2) not exceed one hundred dollars (\$100) per day;
- (3) accrue from the day the public body is in noncompliance until a written denial is issued; and
- (4) be payable from the funds of the public body.

**14-2-12. Enforcement.**

**A. An action to enforce the Inspection of Public Records Act may be brought by:**

**(1) the attorney general or the district attorney in the county of jurisdiction; or**

**(2) a person whose written request has been denied.**

**B. A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of the Inspection of Public Records Act.**

**C. The exhaustion of administrative remedies shall not be required prior to bringing any action to enforce the procedures of the Inspection of Public Records Act.**

**D. The court shall award damages, costs and reasonable attorneys' fees to any person whose written request has been denied and is successful in a court action to enforce the provisions of the Inspection of Public Records Act.**

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**Williamsburg, NM 87942**  
**575.894.6385 / FAX 575.894.0466**  
[clerk@villageofwilliamsburg.com](mailto:clerk@villageofwilliamsburg.com)

**Public Records Request**

I, \_\_\_\_\_ request from the Village Municipal Office  
of the Village Clerk to ( ) inspect or ( ) obtain copies of the following information:

- ( ) \_\_\_\_\_
- ( ) \_\_\_\_\_
- ( ) \_\_\_\_\_
- ( ) \_\_\_\_\_
- ( ) \_\_\_\_\_
- ( ) \_\_\_\_\_

\_\_\_\_\_  
Signature of  
Individual Requesting Information

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Address

**Public Records Received**

I, \_\_\_\_\_ have inspected or received from the  
Office of the Village Clerk the information requested above:

\_\_\_\_\_  
Signature of  
Individual Receiving Information

\_\_\_\_\_  
Date

\_\_\_\_\_  
Village Clerk's Signature

\_\_\_\_\_  
Date