

RULES PERTAINING TO PUBLIC ACCESS TO RECORDS OF THE TOWN OF TONAWANDA

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§ 1 Purpose and Scope.

(a) The Town Board finds that a free society is maintained when government is responsive and responsible to the public. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. The more open a government is with its residents, the greater the understanding and participation of the public in government. All Town records belong to our citizens and it is our duty to care for them properly and make them available. See generally Public Officers Law, Article 6, §§ 84-90.

(b) Any New York State or municipal department or government entity performing a governmental or proprietary function is subject to the Freedom of Information Law, most commonly referred to as "F.O.I.L." or "FOIL". Each governmental entity is an "agency." The Town Justice Court is outside its coverage but often must disclose records under other provisions of law. Set forth herein are the procedures to be followed when individuals seek access, pursuant to the Freedom of Information Law, to records in the custody of and maintained by the Town of Tonawanda.

(c) The Record Access Officers shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law. In this regard the term "records" is defined to include all information kept, held, filed, produced or reproduced by, with or for the Town of Tonawanda in any physical form whatsoever and applies to Town records generated, received, or maintained electronically, including, but not limited to, all records and data kept on Town servers, individual computers, e-mail logs, etc.

§ 2 Designation of Records Access Officer.

The Town of Tonawanda Town Clerk, Marguerite Greco, Town Justice Court Clerk Denise Cefalu and Town Police Captain Timothy Waring are designated as Records Access Officers responsible for insuring compliance with FOIL and with the policies and procedures established by the Town of Tonawanda Town Board for responding to release of information requests.

§ 3 Location.

Records shall be available for public inspection and copying at:

Town of Tonawanda Town Clerk's Office
Kenmore Municipal Building
2919 Delaware Avenue, Room 14
Kenmore, NY 14217

Town of Tonawanda Justice Court
1835 Sheridan Drive
Buffalo, NY 14223

Town of Tonawanda Police Department
1835 Sheridan Drive
Buffalo, NY 14223

****Unless otherwise specified****

§ 4 Hours for Public Inspection.

Requests for public access to records may be made by appointment with:

Town Clerk/Records Access Officer
Justice Court Clerk/Records Access Officer
Police Department/Records Access Officer

§ 5 Request for Public Access to Records.

(a) A written request shall be required. A standard request form will be generally used, although it will not be an absolute requirement to use that form when filing a Freedom of Information Law request. All FOIL requests should be directed and/or submitted to the appropriate Record Access Officers listed above. It shall be the responsibility of the Records Access Officer to make the decision as to how each FOIL request should be responded to.

(b) An acknowledgement letter will be sent to the requestor within five (5) business days of receipt of a request by the Records Access Officer.

(c) A decision and response will be made within (20) days from the acknowledgement by the Records Access Officer, which shall be reasonable under the circumstances of the request, as to whether the request will be granted, denied or that the circumstances prevent disclosure.

(d) The records will be provided on the medium requested by a person if the Town can reasonably make such a copy or have such copy made by engaging an outside professional service.

(e) If records are maintained on the internet, the requestor shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.

(f) Once the Records Access Officer has obtained the records that have been requested, the requestor will be contacted to either review the records, or pick up the copies of the records. The Records Access Officer will inform the requestor of the times and places the records are available, from whom the records may be obtained, and the fees for the copies of the records requested. While in most cases, the records will be forwarded to the Records Access Officer from the respective departments.

(g) The Records Access Officer will close the FOIL request once it is satisfied and paid or it is denied.

(h) A failure to comply with the time limitations described herein may result in the request being deemed denied and subject to appeal.

§ 6 Subject Matter List.

(a) The Records Access Officer shall maintain a reasonably detailed current list by subject matter of all records maintained by the Town of Tonawanda, whether or not records are available pursuant to subdivision two of Section eighty-seven of the Public Officers Law.

(b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought. (Please see attached list on page #5)

§ 7 Denial of Access to Records and Appeal of Denial.

(a) Denial of access to records shall be from the Town Access Officer and shall be in writing stating the reason therefore and advising the requestor of the right to appeal in writing, within thirty (30) days of the denial, to the Town of Tonawanda Appeal Officer:

Town of Tonawanda Town Attorney
Mario Giacobbe
Kenmore Municipal Building
2919 Delaware Avenue, Room 2
Kenmore, NY 14217

(b) The time for deciding an appeal by the Town Appeal Officer shall commence upon receipt of the written appeal that identifies the following:

- (1) the date and location of requests for records;
- (2) a description, to the extent possible, of the records that were denied; and
- (3) the name and return address of the person denied access.

(c) The Town Appeal Officer shall inform the appellant of its determination in writing within ten (10) business days of receipt of an appeal. A failure to determine an appeal within ten (10) business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

§ 8 Fees.

(a) There shall be no fee charged for:

- (1) inspection of records;
- (2) search for records; or
- (3) any certification pursuant to this part.

(b) Fees for copies may be charged, provided that:

(1) the fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches;

(2) the fee for copies of records not covered by paragraph (1) of this subdivision, such as fees for the actual cost of reproducing any other records in varying forms of media such as a computer disk, can also be charged; the cost of reproducing a record may include the hourly salary paid to the lowest paid agency employee able to reproduce the record if at least two hours of agency employee time is needed to prepare a copy of the record requested, the cost of the storage device or media provided to the person making the request and the cost of engaging an outside organization to produce a copy of the record.

(c) The requestor will be instructed to pay the appropriate Records Access Officer for the fees incurred.

(d) In the event the requestor has requested records in which photocopying fees will be in excess of \$10.00, the requestor will be required to pay a deposit of \$10.00 prior to the photocopying of documents. This will ensure that the requestor is serious in the request to receive the information and avoid the risk of time being wasted by employees making photocopies of records that are never claimed.

§ 9 Severability.

If any provision of these rules or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these rules or the application thereof to other persons and circumstances.

**PUBLIC ACCESS TO RECORDS SUBJECT MATTER LIST FOR THE
TOWN OF TONAWANDA**

1. Audits
2. Budgets
3. Building and Property History
4. Claims
5. Court Documents (Contact Court Clerk for accessibility details)
6. Dog Identification/Control Documents
7. Freedom of Information Documents
8. Games of Chance/Bingo
9. License/Permits
10. Public Safety (Contact Police Records Access Officer for accessibility details)
11. Purchasing Reports
12. Taxation/Assessment Documents
13. Town Board Minutes



Office of the Clerk
Marguerite Greco

APPLICATION FOR PUBLIC ACCESS TO RECORDS

Date: _____

To: Marguerite Greco, Records Access Officer

I wish to inspect the following record(s): (Identify records you are interested in as clearly as possible.)

You may inspect documents first and then ask for copies of the ones you actually want.

Number of Copies requested: (\$.25 per copy) _____

Signature: _____

Printed Name: _____

Address: _____

City/State/Zip: _____

Daytime Phone: _____ EMAIL: _____

FOR AGENCY USE ONLY

___ APPROVED

Date: _____ Time: _____

Photocopies: Number _____ Charge _____

___ RECORD/DOCUMENT DOES NOT EXIST (Freedom of Information Law pertains to existing records. Section 89(3) of that statute provides in part that an agency is not required to prepare a record that is not maintained by the agency in response to a request. In short, if the record in question does not exist, the Freedom of Information Law would not apply.)

___ DENIED (for the reason(s) checked below)

- ___ Exempted by statute other than Freedom of Information
- ___ Unwarranted invasion of personal privacy
- ___ Would impair contract awards or collective bargaining agreements
- ___ Trade secret; confidential commercial information
- ___ Law enforcement records
- ___ Would endanger the life or safety of any person
- ___ Interagency or intra-agency materials
- ___ Record is not maintained by this agency
- ___ Record of which this agency is legal custodian cannot be found
- ___ Other (specify) _____

Any person DENIED access to Records may appeal the denial within 30 days of the denial. Such appeal should be addressed to Town of Tonawanda Appeals Officer, Mario Giacobbe, 2919 Delaware Avenue, Room 2, Kenmore, New York 14217