

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

1. Purpose and scope
2. Designation of records access officer
3. Location
4. Hours for public inspection
5. Requests for public access to records
6. Subject matter list
7. Denial of access to records
8. Fees
9. Severability

§ 1 Purpose and Scope.

(a) The State Legislature 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 Cheektowaga.

(c) Personnel 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 Cheektowaga 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, private e-mail messages, text messages, etc.

§ 2 Designation of Records Access Officer.

The Cheektowaga Town Clerk's Office (the Town Clerk's Office) is responsible for insuring compliance with FOIL and with the policies and procedures established by the Town of Cheektowaga for responding to release of information requests. The Town Clerk and the Records Manager of the Town Clerk's Office are designated as Records Access Officers.

§ 3 Location.

Records shall be available for public inspection and copying at:

Cheektowaga Records Center
735 Maryvale
Cheektowaga, NY 14225

unless otherwise specified.

§ 4 Hours for Public Inspection.

Requests for public access to records may be made by appointment with the Records Manager of the Town Clerk's Office.

§ 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 Town Clerk. It shall be the responsibility of the Records Manager 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 Manager.

(c) A decision and response will be made by the Records Manager, 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 Manager 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 Manager 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 Center, in some cases, the requestor will be asked to view or pick up the records at the respective department.

(g) The Records Manager 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 Manager shall maintain a reasonably detailed current list by subject matter of all records maintained by the Town of Cheektowaga, 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.

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

(a) Denial of access to records shall be from the Records Manager 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 Cheektowaga Town Clerk, Town Hall, 3301 Broadway, Cheektowaga, New York 14227 ((716) 686-3400).

(b) The time for deciding an appeal by the Cheektowaga Town Clerk 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) 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.

(d) The Cheektowaga Town Clerk shall inform the appellant and the Committee on Open Government of its determination in writing within ten (10) business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government at the following address:

Committee on Open Government

Department of State
41 State Street
Albany, NY 12231

§ 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) Copies may be provided without charging a fee.

(c) 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.

(d) The requestor will be instructed to pay the Town Clerk or the Records Manager for the fees incurred.

(e) 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.

