

## **Chapter 40**

### **PUBLIC RECORDS, ACCESS TO**

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**[HISTORY: Adopted Walton Village Board 6-19-1968. Amendments noted where applicable.]**

#### **§ 40-1. Purpose and scope.**

- A. 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. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These rules provide information concerning the procedures by which records may be obtained from an agency as defined by Subdivision 3 of § 86 of the Public Officers Law of the State of New York.

- C. Agency 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.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

**§ 40-2. Designation of records access officer; duties.**

- A. The Board of Trustees shall be responsible for ensuring compliance with the regulations herein and hereby designates the Village Clerk-Treasurer, as records access officer. The Village Clerk-Treasurer shall have the duty of coordinating agency response to public requests for access to records. **[Amended 2-2-2009 by L.L. No. 1-2009]**
- B. The records access officer is responsible for assuring that agency personnel:
  - (1) Maintain an up-to-date subject matter list.
  - (2) Assist the requester in identifying requested records, if necessary.
  - (3) Upon locating the records, take one of the following actions:
    - (a) Make records available for inspection.
    - (b) Deny access to the records in whole or in part and explain in writing the reasons therefor.
  - (4) Upon request for copies of records, take (1) of the following actions:
    - (a) Make a copy available upon payment or offer to pay established fees, if any.
    - (b) Permit the requester to copy those records.

- (5) Upon request, certify that a record is a true copy.
- (6) Upon failure to locate records, certify that:
  - (a) The agency is not the custodian for such records; or
  - (b) The records of which the agency is a custodian cannot be found after diligent search.

**§ 40-3. Location of records.**

Each agency shall designate the locations where records shall be available for public inspection and copying.

**§ 40-4. Hours for public inspection.**

- A. Each agency shall accept requests for public access to records and produce records during all hours they are regularly open for business.
- B. In agencies which do not have daily regular business hours, a written procedure shall be established by which a person may arrange an appointment to inspect and copy records. Such procedure shall include the name, position, address and phone number of the party to be contacted for the purpose of making an appointment.

**§ 40-5. Requests for public access to records.**

- A. An agency may require that a request be made in writing or may make records available upon oral request.
- B. An agency shall respond to 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 agency does not provide or deny access to the record sought within five business days of receipt of a request, the agency shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

**§ 40-6. Subject matter list.**

- A. Each agency 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.

**§ 40-7. Denial of access to records; appeal.**

- A. The Board of Trustees shall hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.
- B. Denial of access shall be in writing stating the reason therefor and advising the person denied access of his or her right to appeal to the person or body established to hear appeals, and that person or body shall be identified by name, title, business address and business telephone

number. The records access officer shall not be the appeals officer.

- C. If an agency fails to respond to a request within five business days of receipt of a request as required in § 40-5D of this resolution, such failure shall be deemed a denial of access by the agency.
- D. Any person denied access to records may appeal within 30 days of denial.
- E. 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 and location of a request for records.
  - (2) The records that were denied.
  - (3) The name and return address of the appellant.
- F. The agency shall transmit to the Committee on Public Access to Records copies of all appeals upon receipt of an appeal. Such copies shall be addressed to: Committee on Public Access to Records, 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 Public Access to Records of its determination in writing within seven business days of receipt of an appeal. The determination shall be transmitted to the Committee on Public Access to Records in the same manner as set forth in Subsection F of this section.
- H. A final denial of access to a requested record, as provided for in Subsection G of this section, shall be subject to court review as provided for in Article 78 of the Civil Practice Law and Rules.

**§ 40-8. Fees.**

Except when a different fee is otherwise prescribed by law:

- A. There shall be no fee charged for the following:
  - (1) Inspection of records.
  - (2) Search for records.
  - (3) Any certification pursuant to this rule.
- B. An agency may provide copies of records without charging a fee.
- C. An agency may charge a fee for copies of records, provided that:
  - (1) The fee for copying records shall not exceed \$0.25 per page for photocopies not exceeding nine inches by 14 inches. This section shall not be construed to mandate the raising of fees where agencies in the past have charged less than \$0.25 for such copies.
  - (2) In agencies which do not have photocopying equipment, a transcript of the requested records shall be made upon request. Such transcripts may either be typed or handwritten. In such cases, the person requesting records may be charged for the clerical time involved in making the transcript.
  - (3) The fee for copies of records not covered by Subsection C(1) and (2) of this section shall not exceed the actual reproduction cost, which is the average unit cost for copying a record, excluding fixed costs of the agency, such as operator salaries.

**§ 40-9. Public notice.**

Each agency shall publicize by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

- A. The location where records shall be made available for inspection and copying.
- B. The name, title, business address and business telephone number of the designated records access officer.
- C. The right to appeal by any person denied access to a record and the name and business address of the person or body to whom an appeal is to be directed.

**§ 40-10. Severability.**

If any provision of this resolution 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 this resolution or the application thereof to other persons and circumstances.