

LOCAL LAW #1 OF 2011: “PUBLIC ACCESS TO RECORDS

“OF THE TOWN OF RENSSELAERVILLE:

Section 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 of confidentiality.

(b) These regulations provide information concerning the procedures by which records may be obtained.

(c) The designated records access officer of the Town of Rensselaerville 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.

Section 2 Designation of records access officer:

(a) The Town Board of the Town of Rensselaerville is responsible for insuring compliance with the regulations herein, and designates the Town Clerk of the Town of Rensselaerville, and in her absence, the Deputy Town Clerk, as records access officers. The Town Clerk’s office address is Rensselaerville Town Hall, 87 Barger Road, Medusa, NY 12120.

(b) The records access officer is responsible for insuring appropriate agency response to public requests for access to records.

The records access officer shall insure that agency personnel:

(1) Maintain an up-to-date subject matter list.

(2) Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.

(3) Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.

(4) Upon locating the records, take one of the following actions:

(i) Make records available for inspection; or,

- ii) Deny access to the records in whole or in part and explain in writing the reasons therefor.
- (5) Upon request for copies of records:
- (i) Make a copy available upon payment or offer to pay established fees, if any, in accordance with Section 8; or,
 - (ii) Permit the requester to copy those records.
- (6) Upon request, certify that a record is a true copy ; and
- (7) Upon failure to locate records, certify that;
- (i) The Town of Rensselaerville is not the custodian for such records, or
 - (ii) The records of which the Town of Rensselaerville is a custodian cannot be found after diligent search.

Section 3 Location:

Records shall be available for public inspection and copying at the Rensselaerville Town Hall, 87 Barger Road, Medusa, NY 12120. No person requesting records shall take any such records from the Town Hall or from any office within the Town Hall where the records are kept or are made available. No Town official or employee shall allow, grant permission, or otherwise consent to any person to take possession of official records of the Town of Rensselaerville or to remove any such records from the Town Hall.

Section 4 Hours for public inspection:

Requests for public access to records shall be accepted and records produced during all hours regularly open for business.

These hours are: Monday – Wednesday from 9:00 a.m – 4:30 p.m; Thursday from 2:00 p.m. – 7:30 p.m, Friday from 9:00 a.m. – 3:00 p.m.

Section 5 Requests for public access to records:

(a) A written request shall be required, but oral requests may be accepted from time to time when records are readily available.

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

(c) A response shall be given within five business days of receipt of a request by:

(1) informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible,

that would enable that person to request records reasonably described;

(2) granting or denying access to records in whole or in part;

(3) acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or

(4) if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.

(d) In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

(e) A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:

(1) fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;

(2) acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;

(3) furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;

(4) fails to respond to a request within a reasonable time after the approximate date given or within twenty business days after the date of the acknowledgment of the receipt of a request;

(5) determines to grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides

the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;

(6) does not grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or

(7) responds to a request, stating that more than twenty business days is needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

Section 6 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 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. The subject matter list is not a compilation of every record an agency has in its possession, but rather is a list of the subjects or file categories under which records are kept. It should make reference to all records in possession of an agency, whether or not the records are available.

(c) The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

Section 7 Denial of access to records:

(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 determine appeals, who shall be identified by name, title, business address and business phone number.

(b) If requested records are not provided promptly, as required in Section 5 of these regulations, such failure shall also be deemed a denial of access.

(c) The Town Attorney, or in his absence, the Deputy Town Attorney, shall determine appeals regarding denial of access to records under the Freedom of Information Law. A written appeal to the Town Attorney shall be addressed to Town Attorney, Town of Rensselaerville, 87 Barger Road, Medusa, NY 12120.

(d) Any person denied access to records may appeal within thirty days of a denial.

(e) The time for deciding an appeal by the Town Attorney shall commence upon receipt of a written appeal identifying:

(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.

(f) A failure to determine an appeal within ten 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.

(g) The Town Attorney shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, Suite 650, Albany, NY 12231

(h) The Town Attorney shall inform the appellant and the Committee on Open Government of its determination in writing within ten 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 subdivision (f) of this section.

Section 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, as follows:

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

(2) the fee for photocopies of records in excess of 9 x 14 inches shall be the actual cost of reproduction; or

(3) an agency has the authority to redact portions of a paper record and does so prior to disclosure of the record by making a photocopy from which the proper redactions are made.

(d) The fee the Town of Rensselaerville may charge for a copy of any other record is based on the actual cost of reproduction and may include only the following:

(1) an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and

(2) the actual cost of the storage devices or media provided to the person making the request in complying with such request; or

(3) the actual cost to the Town of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.

(e) When the Town has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the Town shall be required to retrieve or extract such record or data electronically. In such case, the Town may charge a fee in accordance with paragraph (d)(1) and (2) above.

(f) The records access officer shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.

(g) The records access officer may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.

(h) The records access officer may waive a fee in whole or in part when making copies of records available.

Section 9 Records to be maintained and made available to the public:

- A. The town of Rensselaerville shall maintain and make available for public inspection and copying all records, except that the records access officer may deny access to records or portions thereof that:
- (1) are specifically exempted from disclosure by state or federal statute;
 - (2) if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of § 10 of this law;
 - (3) if disclosed, would impair present or imminent contract awards or collective bargaining negotiations;
 - (4) 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) 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;
 - (d) reveal criminal investigative techniques or procedures; except routine techniques and procedures
 - (6) if disclosed, would endanger the life or safety of any person;

- (7) are inter-agency or intra-agency materials which are not:
 - (a) statistical or factual tabulations or data;
 - (b) instructions to staff that affect the public; or
 - (c) final agency policy or determinations; or
- (8) are examination questions or answers which are requested prior to the final administration of such questions.

B. In addition to the requirements imposed by Subsection A hereof, each agency shall maintain a record of the final vote of each member in every agency proceeding in which the member votes.

Section 10 Prevention of unwarranted invasion of personal privacy:

A. To prevent an unwarranted invasion of personal privacy, each agency will observe guidelines for the deletion of identifying details from specified records promulgated by the New York State Committee on Public Access to Records. In the absence of such guidelines, an agency may delete identifying details when it makes records available.

B. An unwarranted invasion of personal privacy includes, but shall not be limited to:

- (1) disclosure of employment, medical, or credit histories or personal references of applicants for employment;
- (2) disclosure of items involving the medical or personal records of a client of patient in a medical facility;
- (3) disclosure of lists of names and addresses if such lists would be used for commercial or fundraising purposes;
- (4) disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or maintaining it; or
- (5) disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency.

C. Unless otherwise provided by this law, disclosure shall not be construed to constitute an unwarranted invasion of personal privacy pursuant to Subsections A and B of this section:

- (1) when identifying details are deleted;
- (2) when the person to whom a record pertains consents in writing to disclosure;
- (3) when upon presenting reasonable proof of identity, a person seeks access to records pertaining to him/her.

Section 11 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 copies made shall be posted in a conspicuous location wherever records are kept, on the Town of Rensselaerville official website and published in the Town of Rensselaerville newsletter.

Section 12 Severability:

If any provision of these regulations 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 regulations or the application thereof to other persons and circumstances.

End of Law

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