

2018 PUBLIC ACCESS TO RECORDS POLICY

Updated: March 27, 2018

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 shall be provided pursuant to the law, rules and regulations of New York State.

B. This policy statement provides information concerning the procedures by which records may be obtained.

C. Town personnel shall furnish to the public the information and records required to be disclosed by the Freedom of Information Law, as well as records otherwise available by law.

2. Designation of records access officer.

A. The Town of Riverhead hereby designates the following person(s) as records access officer(s) regarding each individual town department as follows:

- (1) Accounting: Department Head or Designee
- (2) Animal Control: Department Head or Designee
- (3) Assessor: Department Head or Designee
- (4) Building: Department Head or Designee
- (5) Code Enforcement: Department Head or Designee
- (6) Community Development: Department Head or Designee
- (7) Economic Development Zone: Designee
- (8) Engineering: Department Head or Designee
- (9) Fire Marshal: Department Head or Designee
- (10) Highway: Department Head or Designee
- (11) Historian: Designee
- (12) Information Technology: Department Head or Designee

- (13) Justice Court: Department Head or Designee
- (14) Municipal Garage: Department Head or Designee
- (15) Personnel: Designee
- (16) Planning: Department Head or Designee
- (17) Police/COPE/JAB/Youth Court: Department Head or Designee
- (18) Purchasing: Designee
- (19) Receiver of Taxes: Department Head or Designee
- (20) Recreation: Department Head or Designee
- (21) Sanitation: Department Head or Designee
- (22) Senior Citizen Programs: Department Head or Designee
- (23) Sewer District: Department Head or Designee
- (24) Supervisor's Office: Designee
- (25) Town Attorney's Office: Department Head or Designee
- (26) Town Board: Designee
- (27) Town Clerk: Department Head or Designee
- (28) Water District: Department Head or Designee

B. The respective records access officer is responsible for insuring appropriate agency response to public requests for access to records. The designation of a records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

The records access officer shall insure that each respective department:

- (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:

- (a) Make records available for inspection; or,
- (b) Deny access to the records in whole or in part and explain in writing the reason(s) for denial.

(5) Upon request for copies of records:

- (a) Make a copy available upon payment or offer to pay established fees, if any, in accordance with Section 8; or,

(6) Upon request, certify that a record is a true copy; and

(7) Upon failure to locate records, certify that:

- (a) The Town of Riverhead is not the custodian for such records, or
- (b) The records of which The Town of Riverhead is a custodian cannot be found after diligent search.

3. Location.

Records shall be available for public inspection and copying at each respective department delineated in Section 2.

4. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during the following hours of business: 9:00 a.m. to 4:00 p.m., Monday to Friday, excluding holidays.

5. Requests for public access to records.

A. Each request for records must be in writing and shall be submitted to the Town Clerk's Office, 200 Howell Avenue, Riverhead, New York, 11901, whereupon such written request shall be time-stamped and assigned a unique FOIL number for identification purposes. The Town Clerk or designee shall thereafter immediately forward the records request via e-mail to the appropriate town department's records access officer delineated herein for processing.

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 by the appropriate records access officer 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 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.

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.
- C. The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

7. Appeal/denial of access to records.

- A. Denial of access to records shall be in writing stating the reason therefore and advising the requester of the right to appeal to the individual or body established to determine appeals, [who or which] 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 following person or persons or body shall determine appeals regarding denial of access to records under the Freedom of Information Law:

Daniel P. McCormick, Esq., or designee
FOIL Records Appeals Officer

Town of Riverhead, 200 Howell Avenue, Riverhead, New York, 11901

Tel: 631-727-3200 x 605 e-mail address: mccormick@townofriverheadny.gov

D. Any person denied access to records may appeal within thirty days of notice of the denial by filing a written appeal addressed to the FOIL Records Appeals Officer stated in subsection (C), above.

E. The time for deciding an appeal by the individual or body designated to determine appeals 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 fifteen 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:

- (1) the fee for copying records shall be twenty-five (.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 not exceed the actual cost of reproduction; or

C. The fee for a copy of any other record shall be based on the actual cost of reproduction and subject to 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 agency 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.

D. For those records that the Town of Riverhead has the ability to retrieve or extract from 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 retrieve or extract such record or data electronically. In such case, the Town may charge a fee in accordance with subsection B. and C. above.

E. The Town shall inform a person requesting a record of the estimated cost of preparing a copy of the record including but not limited to circumstances involving more than two hours of an employee's time, or if it is necessary to retain an outside professional service to prepare a copy of the record.

F. The Town reserves the right to require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.

G. Payment of Fees: Applicants may pay with cash or postal money order, certified bank check or an attorney's account check (checking account or IOLA account), payable to the "Town of Riverhead". Please write the FOIL request number on the check.

H. The Town reserves the right to waive a fee in whole or in part when making copies of records.

9. Abandonment of request.

The Town of Riverhead shall deem your FOIL application withdrawn (without notification of same) in the event that you, as applicant, fail to retrieve or review the requested documents within 10 (ten) business days. You will be required to file a new application in the event you still wish to retrieve or review the requested documents subject to all attendant costs.

10. Public notice.

A copy of this policy statement is available on the Town of Riverhead web site at www.townofriverheadny.gov and in the Riverhead Town Clerk's Office, 200 Howell Avenue, Riverhead, New York, 11901.

11. Severability.

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

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