

## Chapter 89

### FREEDOM OF INFORMATION LAW

**SECTION 1.** Pursuant to, and in accordance with, the provisions of Section 89 of the Public Officers Law and Regulations of the New York State Committee on Open Government (promulgated on January 10, 1978) as amended, the Village Board of the Village of Windsor hereby makes, establishes and adopts the following rules and regulations pertaining to the public inspection, copying, availability, location and nature of such Village of Windsor records as are subject to public inspection by law.

**SECTION 2.** Definitions. As used in this Resolution, unless the context requires otherwise:

- (a) "Village" means the Village of Windsor, a municipal corporation organized and existing under and by virtue of the laws of the State of New York and with offices and principal place of business at 107 Main Street, P.O. Box 98, Windsor, NY 13865.
- (b) "Village Board" means the Village Board of the Village, with offices at 107 Main Street, P.O. Box 98, Windsor, NY 13865.
- (c) "Mayor" means the Mayor of the Village, with offices at 107 Main Street, P.O. Box 98, Windsor, NY 13865.
- (d) "Village Clerk" means the Village Clerk of the Village, with offices at 107 Main Street, P.O. Box 98, Windsor, NY 13865.
- (e) "Regulations" means the Regulations promulgated by the Committee on Open Government on January 10, 1978 pursuant to the New York Freedom of Information Law as amended.

**SECTION 3.** Purpose and Scope.

- (a) The people's right to know the process of government decision-making and the documents and statistics leading to determination 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 regulations provide information concerning the procedures by which records may be obtained from the Village.
- (c) Village 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 favor of the widest possible availability of public records.

**SECTION 4.** Designation of records access officer.

- (a) The Village Board and the Mayor shall be responsible for insuring compliance with the regulations herein, and hereby designate the following persons as records access officers, who shall have the duty of coordinating Village response to public requests for access to records

Village Clerk of the Village of Windsor  
107 Main Street  
P.O. Box 98  
Windsor, NY 13865

- (b) Records access officers are responsible for insuring appropriate Village response to public requests for access to records. However, this designation 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.
- (c) Records access officers are responsible for assuring that Village personnel:
- (1) Maintain a reasonably detailed current subject matter list.
  - (2) Assist the requester in identifying requested records, 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 location 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 10, or
    - (ii) Permit the requester to copy these records.
  - (6) Upon request, certify that a record is a true copy, and
  - (7) Upon failure to locate records, certify that:
    - (i) The Village is not the legal custodian for such records, or
    - (ii) The records of which the Village is a custodian cannot be found after diligent search.

**SECTION 5. Location**

Records shall be available for public inspection and copying at:

Village of Windsor Offices  
107 Main Street  
Windsor, NY 13865

or at the location where they are kept.

**SECTION 6. Hours for public inspection**

Requests for public access to records shall be accepted and records produced during all hours the Village of Windsor's Offices are regularly open for business. These hours are: on regular business days, Monday through Friday between the hours of 9:00 AM and 3:00 PM, and during the months of July and August, Monday through Thursday between the hours of 9:00 AM and 3:00 PM.

**SECTION 7. Requests for public access to records.**

- (a) The Village may require that a request be made in writing. Oral requests may be accepted 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) The Village shall respond to any request reasonably describing the record or records sought within five business days of receipt of the 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 appropriate 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;

- (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 with 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 8.** Subject matter list.

- (a) The records access officer shall maintain a reasonable 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.

**SECTION 9.** Denial of access to records.

- (a) 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.
- (b) The Village Board 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.
- (c) If the Village fails to respond to a request as required in section 7 of these Regulations, such failure shall be deemed a denial of access by the Village.
- (d) Any person denied access to records may appeal within thirty days of a 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; and
  - (3) The name and return address of the appellant.
- (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 Village shall transmit to the Committee on Open Government copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Open Government  
Department of State  
41 State St., 11<sup>th</sup> Floor  
Albany, New York 12231

(h) The person or body designated to hear appeals 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 in subdivision (g) of this section.

(i) A final denial of access to a requested record, as provided for in subdivision (h) of this section, shall be subject to court review, as provided for in subdivision (g) of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

**SECTION 10.** 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; or

(3) Any certification pursuant to the Regulations or pursuant to the Resolution.

(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. This section shall not be construed to mandate the raising of fees where agencies or municipalities in the past have charged less than 25 cents for such copies;

(2) The fee for copies of records not covered by paragraphs (1) and (2) of this subdivision, 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.

**SECTION 11.** Public notice. The Village 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 for 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.

**SECTION 12.** 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

