

City of Canandaigua Public Access to Records Policy

1. General

The purpose of this policy is to provide the public with an overview of the City of Canandaigua's implementation of the New York State Freedom of Information Law and general guidance regarding gaining access to public records.

2. Making a Request for a Public Record

The City Clerk Treasurer has been designated as the "Records Access Officer" for the purposes of the Freedom of Information Law. All requests for public records can be made at the office of the City Clerk Treasurer, located in City Hall, 2 North Main Street, Canandaigua, NY 14424, Office Hours are Monday Through Friday from 9:00 AM to 5:00 PM.

Upon receipt of your request, the records access officer shall provide a written response within five business days:

- (a) granting or denying access to records in whole or in part;
- (b) informing a person requesting records that the request or portion of the request does not reasonably describe the records sought. The records access officer shall provide direction or ask for clarification from the requester to enable that person to request records reasonably described;
- (c) 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
- (d) 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.

Failure to provide the requested record within the above time lines, or failure to provide an explanation as to why the record cannot be provided timely shall constitute a denial by the records access officer and may be appealed.

3. Denial of Access to Records

The records access officer may deny access to the records, in whole or in part, that:

- (a) are specifically exempted from disclosure by state or federal statute;
- (b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;
- (c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- (d) are trade secrets or are submitted to the City by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise;
- (e) are compiled for law enforcement purposes and which, if disclosed, would:
 - i. interfere with law enforcement investigations or judicial proceedings;
 - ii. deprive a person of a right to a fair trial or impartial adjudication;
 - iii. identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - iv. reveal criminal investigative techniques or procedures, except routine techniques and procedures;
- (f) if disclosed could endanger the life or safety of any person;
- (g) are inter-agency or intra-agency materials which are not:
 - i. statistical or factual tabulations or data;
 - ii. instructions to staff that affect the public;
 - iii. final agency policy or determinations; or
 - iv. external audits, including but not limited to audits performed by the comptroller and the federal government; or
- (h) are examination questions or answers which are requested prior to the final administration of such questions;
- (i) if disclosed, would jeopardize the capacity of an agency or an entity that has shared information with an agency to guarantee the security of its information technology assets, such assets

encompassing both electronic information systems and infrastructures; or

* (j) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law.

* NB Repealed December 1, 2014

* (k) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-b of the vehicle and traffic law.

* NB Repealed December 1, 2014

* (l) are photographs, microphotographs, videotape or other recorded images produced by a bus lane photo device prepared under authority of section eleven hundred eleven-c of the vehicle and traffic law.

* NB Repealed September 20, 2015

Requested records not provided timely, per Section 2 above, shall be deemed a denied.

Denial of access to records shall be in writing stating the reason therefore and advising the requestor of the right to appeal to the City Manager, 2 North Main Street, Canandaigua, NY 14424; 585-396-5000, ext 5000.

4. Appeal of Denial

Appeals shall be made in writing to the City Manager, 2 North Main Street, Canandaigua, NY 14424; 585-396-5000, ext 5000, within 30 days of the date of the denial.

Appeals shall contain the following information:

- a) the date and location of requests for records;
- b) a description, to the extent possible, of the records that were denied; and
- c) the name, phone number, and return address of the person denied access.

The Clerk/Treasurer 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

The City Manager shall respond to the appellant in writing within ten business days of receipt of the appeal by granting access to the records sought or fully explaining the reasons for further denial in

writing shall constitute a denial of the appeal. A copy of the response shall be transmitted to the Committee on Open Government.

5. Fees and Costs

The fees for copies of records which shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record, except when a different fee is otherwise prescribed by statute.

In determining the actual cost of reproducing a record, the City may include only:

- a) an amount equal to the hourly salary attributed to the lowest paid City employee who has the necessary skill required to prepare a copy of the requested record;
- b) the actual cost of the storage devices or media provided to the person making the request in complying with such request;
- c) the actual cost to the City of engaging an outside professional service to prepare a copy of a record, but only when the City's information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy; and
- d) preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of City employee time is needed to prepare a copy of the record requested. A person requesting a record shall be informed of the estimated cost of preparing a copy of the record if more than two hours of a City employee's time is needed, or if an outside professional service would be retained to prepare a copy of the record.