

ARTICLE II

Public Access to Records**[Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]****§ 46-3. 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 regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law,⁷ 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.

§ 46-4. Designation of Records Access Officer.

- A. The Town of Ulysses is responsible for insuring compliance with the regulations herein, and designates the following person as Records Access Officer:

Town Clerk

10 Elm Street

Trumansburg, NY 14886

Clerk@ulysses.ny.us

- B. In the event of the absence or unavailability of the Town Clerk, the Second Deputy Supervisor shall act as Records Access Officer.
- C. The 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.
- D. 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

7. Editor's Note: See Article 6 of the Public Officers Law, § 84 et seq.

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 reasons therefor; or
 - (c) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 46-10; or
 - (d) Permit the requester to copy those records;
 - (e) Upon request, certify that a record is a true copy.
- (5) Upon failure to locate records, certify that:
 - (a) The Town of Ulysses is not the custodian for such records; or
 - (b) The records of which the Town of Ulysses is a custodian cannot be found after diligent search.

§ 46-5. Location.

Records shall be available for public inspection and copying at:

Town of Ulysses Town Hall
10 Elm Street
Trumansburg, NY 14886

§ 46-6. 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:

- A. 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

§ 46-7. Requests for public access to records.

- A. A written request is required but this requirement may be waived by the Records Access Officer and an oral request 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. 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 20 business days after the date of the acknowledgment; or
 - (4) If it is known that circumstances prevent disclosure within 20 business days from the date of such acknowledgment, providing a statement, in writing, indicating the reason for inability to grant or deny 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 or denied in whole or in part; or
 - (5) If the receipt of request was acknowledged, in writing, and included an approximate date when the request would be granted or denied in whole or in part within 20 business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement, in writing, within 20 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 or denied 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, denies access, in writing, or acknowledges 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 20 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 20 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 or deny a request in whole or in part within 20 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 or denied in whole or in part; or

- (7) Responds to a request, stating that more than 20 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.

§ 46-8. 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 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 annually. The most recent update shall appear on the first page of the subject matter list.

§ 46-9. 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 body established to determine appeals, which shall be identified by title, business address and business phone number.
- B. If requested records are not provided promptly, as required in § 46-7 of these regulations, such failure shall also be deemed a denial of access.
- C. The following body shall determine appeals regarding denial of access to records under the Freedom of Information Law:

Town Board of the Town of Ulysses

Attention: Supervisor

10 Elm Street

Trumansburg, NY 14886

(607) 387-5767

- D. Any person denied access to records may appeal within 30 days of a denial.
- E. The time for deciding an appeal by the 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 30 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 person or body designated to determine appeals 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 person or body designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination, in writing, within 30 days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth Subsection G of this section.

§ 46-10. Fees.

- A. There shall be no fee charged for:
- (1) Inspection of records;
 - (2) Search for records; or
 - (3) Any certification pursuant to this chapter.
- 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 \$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 or municipalities in the past have charged less than \$0.25 for such copies;
 - (2) The fee for photocopies of records in excess of nine inches by 14 inches shall not exceed 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 an agency 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 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.
- E. When an agency 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 nonelectronic records, the agency shall be required to retrieve or extract such record or data electronically. In such case, the agency may charge a fee in accordance with Subsection D(1) and (2) above.
- F. An agency 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. An agency may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.
- H. An agency may waive a fee, in whole or in part, when making copies of records available.

§ 46-11. Public notice.

A notice containing the title or name and business address of the Records Access Officers and appeals body and the location where records can be seen or copies can be made shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.