

Chapter 81

RECORDS, PUBLIC ACCESS TO

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[HISTORY: Adopted by the Town Board of the Town of New Baltimore 10-14-75 by resolution. Amendments noted where applicable.]

§ 81-1. Purpose and scope.

- A. The people's right to know the process of government decisionmaking 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 and those which were furnished to the public prior to its enactment.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 81-2. Records access officer.

- A. The Town Supervisor is responsible for ensuring compliance with the regulations herein and designates the following persons as records access officers.¹
- B. Records access officers are responsible for ensuring appropriate agency response to public requests for access to records. However, the public shall not be denied access to records through officials who have in the past been authorized to make records or information available.
- C. Records access officers shall assure that personnel:
- (1) Maintain an up-to-date subject matter list.
 - (2) Assist the requester in identifying requested records, if necessary.
 - (3) Upon locating the records, take one (1) of the following actions in accordance with § 81-6B:
 - (a) Make records promptly available for inspection;
or
 - (b) Deny access to the records in whole or in part and explain in writing the reasons therefor.
 - (4) Upon request for copies of records:
 - (a) Make a copy available upon payment of or offer to pay established fees, if any, in accordance with § 81-8; or
 - (b) Permit the requester to copy those records.
 - (5) Upon request, certify that a transcript is a true copy of records copied.
 - (6) Upon failure to locate records, certify that:
 - (a) The Town of New Baltimore is not the legal custodian for such records; or

¹ The name(s) of the designated records access officer(s) is on file in the Office of the Town Clerk.

- (b) The records of which the Town of New Baltimore is a legal custodian, after diligent search, cannot be found.

§ 81-3. Fiscal officer.

- A. The Town Supervisor is designated the fiscal officer, who shall certify the payroll and respond to requests, in accordance with § 81-6B, for an itemized record setting forth the name, address, title and salary of every officer or employee of the agency. **[Amended 4-8-86]**
- B. The fiscal officer shall make the payroll items listed above available to any person, including bona fide members of the news media as required under § 88, Subdivision 1g and i and Subdivision 10, of the Freedom of Information Law.²

§ 81-4. Location of records. [Amended 4-8-86]

Records shall be available for public inspection and copying at the Town Clerk's office or at the location where they are kept.

§ 81-5. 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: 9:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. (NOTE: Agencies and municipalities which do not have daily regular business hours should consult Section 5 of the Appendix.³)

§ 81-6. Requests for public access to records.

- A. Where a request for records is required, such request may be oral or in writing. However, written requests shall not be required for records that have been customarily available without written request.
- B. Time for response to request.

- (1) Except under extraordinary circumstances, officials shall respond

² Former §88 of the Public Officers Law was repealed by L. 1977, c. 933. See now §§ 87 through 89 of the Public Officers Law

³ Section 5 of the Appendix to this resolution is on file in the office of the Town Clerk

to a request for records no more than five (5) business days after receipt of the request, whether the request is oral or in writing.

- (2) If, because of extraordinary circumstances, more than five (5) business days are required to respond to a request, receipt of the request shall be acknowledged within five (5) business days after the request is received. The acknowledgment shall state the reason for delay and estimate the date when a reply will be made.

C. A request for access to records should be sufficiently detailed to identify the records. Where possible, the requester should supply information regarding dates, titles, file designations or other information which may help identify the records. However, a request for any or all records falling within a specific category conforms to the standard that records be identifiable.

D. Subject matter list.

- (1) A current list, by subject matter, of all records produced, filed or first kept or promulgated after September 1, 1974, shall be available for public inspection and copying. The list shall be sufficiently detailed to permit the requester to identify the file category of the records sought.
- (2) The subject matter list shall be updated periodically, and the date of the most recent updating shall appear on the first page. The updating of the subject matter list shall not be less than semiannually.

NOTE: To assist requesters, a copy of the subject matter list may be filed with regulations governing access to records.

E. No records may be removed by the requester from the office where the record is located without the permission of the Town Board.

§ 81-7. 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 hear appeals.

- B. If requested records are not provided promptly, as required in § 81-6B of this chapter, such failure shall also be deemed a denial of access.
- C. The following person or persons or body shall hear appeals for denial of access to records under the Freedom of Information Law.⁴
- D. 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 of the appeal.
 - (2) The date and location of the requests for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or was by failure to provide records promptly as required by § 81-6B.
 - (5) The name and return address of the requester.
- E. The individual or body designated to hear appeals shall inform the requester of its decision in writing within seven (7) business days of receipt of an appeal.
- F. A final denial of access to a requested record, as provided for in Subsection E of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

§ 81-8. Fees.

- A. There shall be no fee charged for:
 - (1) Inspection of records.
 - (2) Search for records.
 - (3) Any certification pursuant to this chapter.
- B. The fee for photocopies not exceeding eight and one-half by fourteen

⁴ The person, persons or body to hear appeals for denial of access to records was not set forth in the original resolution.

(8 1/2 x 14) inches is twenty-five cents (\$0.25) per page.

- C. The fee for copies of records other than photocopies which are eight and one-half by fourteen (8 1/2 x 14) inches or less in size shall be the actual copying cost, excluding fixed agency costs such as salaries.

§ 81-9. Public notice of information regarding records access.

A notice containing the job title or name and business address of the records access officers and fiscal officer, the name, job title, business address and telephone number of the appeal person or persons or body, and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.