

**TOWN OF CHEEKTOWAGA  
RULES PERTAINING TO PUBLIC ACCESS  
TO RECORDS OF  
THE TOWN OF CHEEKTOWAGA**

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**1. Purpose and Scope.**

- (a) The State Legislature finds that a free society is maintained when government is responsive and responsible to the public. 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. The more open a government is with its residents, the greater the understanding and participation of the public in government. All Town records belong to our citizens and it is our duty to care for them properly and make them available. This policy serves as a detailed element of the FOIL Law; see Public Officers Law, Article 6, §84-90 [Freedom of Information Law].
- (b) Any New York State or municipal department or government entity performing a governmental or propriety function is subject to the Freedom of Information Law, most commonly referred to as "F.O.I.L." or "FOIL". Each governmental entity is an "agency." The Town Justice Court is outside its coverage but often must disclose records under other provisions of the law. Set forth herein are the procedures to be followed when individuals seek access, pursuant to the Freedom of Information Law, to records in the custody of and maintained by the Town of Cheektowaga.
- (c) The Town Clerk, as Records Management Officer, shall furnish to the public the information and records required by the Freedom of Information

Law, as well as records otherwise available by law. In this regard the term “records” is defined to include any information kept, held, filed, produced or reproduced by, with or for the Town, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

## **2. Designation of Records Access Officer.**

The Cheektowaga Town Clerk is responsible for insuring compliance with FOIL and with the policies and procedures established by the Town of Cheektowaga for responding to release of information requests. The Town Clerk, the Director of Information Technology and Records Management and Lieutenant of Records by Town Board Resolution, are designated as Records Access Officers.

## **3. Location.**

Records shall be available for public inspection and copying at:

Cheektowaga Town Hall  
Town Clerk’s Office  
3301 Broadway  
Cheektowaga, NY 14227

Unless otherwise specified.

## **4. Hours for Public Inspection.**

Requests for public access to records may be made by appointment with the Town Clerk, the Director of Information Technology and Records Management or the Lieutenant of Records.

## **5. Request for Public Access to Records.**

- (a) A written request shall be required via the Towns standard request form or via email to [townclerkwebmail@tocny.org](mailto:townclerkwebmail@tocny.org) will be generally used, although it will not be an absolute requirement to use the form when filing a Freedom of Information Law request. All FOIL requests should be directed and/or submitted to the Town Clerk. It shall be the responsibility of the Town Clerk and/or the Deputy Town Clerk to make the decision as to how each FOIL request should be handled.
- (b) An acknowledgment letter will be sent to the requestor within five (5) business days of receipt of a request by the Town Clerk or the Deputy Town Clerk.
- (c) A decision and response will be made by the Town Clerk and/or Deputy Town Clerk, which shall be reasonable under the circumstances of the request, as to whether the request will be granted, denied or that circumstances prevent disclosure.
- (d) The records will be provided on the medium requested by the requestor if the Town can reasonably make such a copy or have such copy made by engaging an outside professional service for a fee determined by the Town Clerk.
- (e) If records are maintained on the internet, the requestor shall be informed that the records are accessible via the internet.
- (f) The Town Clerk, Deputy or Records Officer may require a person requesting lists of names and addresses to provide a written certification that such person will not use such lists of names and addresses for solicitation or fund-raising purposes and will not sell, give or otherwise make available such lists of names and addresses to any other person for the purpose of allowing that person to use such lists of names and addresses for solicitation or fund-raising purposes.
- (g) Once the Deputy Town Clerk has obtained the records that have been requested, the requestor will be contacted to either review the records, or pick up the copies of the records. The Deputy Town Clerk will inform the requestor of the times and the places the records are available, from whom the records may be obtained, and the fees for the copies of the records requested. While in most cases, the records will be forwarded to the Town

Clerk's Office, in some cases, the requestor will be asked to view or pick up the records at the respective department.

- (h) The Deputy Town Clerk will close the FOIL request once it is satisfied and paid, or it is denied.
- (i) A failure to comply with the time limitations described herein may result in the request being deemed denied and subject to appeal.

## **6. Subject Matter List.**

- (a) The Town Clerks Office shall maintain a reasonably detailed current list by subject matter of all records maintained by the Town of Cheektowaga, whether or not records are available pursuant to subdivision two of Section eighty-seven of the Public Officers Law.
- (b) The NYS LGS-1 Schedule will serve as the Town's subject matter list.

## **7. Denial of Access to Records and Appeal of Denial.**

- (a) Denial of access to records shall be from the Town Clerk and shall be in writing stating the reason therefore and advising the requestor of the right to appeal in writing, within thirty (30) days of the denial, to:

Cheektowaga Town Attorney  
Town Hall, 3301 Broadway  
Cheektowaga, New York 14227  
(716) 686-3483

- (b) The time for deciding an appeal by the Cheektowaga Town Attorney shall commence upon receipt of the written appeal that identifies the following:
  - (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.
- (c) A failure to determine an appeal within ten (10) 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.
- (d) The Cheektowaga Town Clerk or the Town Attorney shall inform the appellant and the Committee on Open Government of its determination in writing within ten (10) business days of receipt of an appeal.
- (e) The determination shall be transmitted to the Committee on Open Government at the following address:

Committee on Open Government  
Department of State  
41 State Street  
Albany, NY 12231

## **8. Fees.**

- (a) There shall be no fee charged for:
  - (1) Inspection of records
  - (2) A Reasonable Search for records; or
  - (3) Any certification pursuant to this part.
- (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;
  - (2) The fee for copies of records not covered by paragraph (1) of this subdivision, such as fees for the actual cost of reproducing any other records in varying forms of media such as a computer disk, may also be charged; the cost of reproducing a record may include the hourly salary paid to the lowest paid agency employee able to reproduce the record if at least two hours of agency employee time is needed to prepare a copy of the record requested, the cost of the

storage device or media provided to the person making the request and the cost of engaging an outside organization to produce a copy of the record.

- (d) The requestor will be instructed to pay the Town Clerk the fees incurred.
- (e) In the event the requestor has requested records in which photocopying fees will be in excess of \$10.00, the requestor will be required to pay a deposit of \$10.00 prior to the photocopying of documents. This will ensure that the requestor is serious in the request to receive information and avoid the risk of time being wasted by employees making photocopies of records which are never claimed.
- (f) The fee for reproducing an electronic record on computer disk shall not exceed \$5.00 for the media.

## **9. Severability.**

If any provision of these rules 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 these rules or the application thereof to other persons and circumstances.

*August 2020*