

## Freedom of Information Law Policy

### Introduction

This policy provides an overview of the Town of Shelby's (the "Town") implementation of the New York State Freedom of Information Law ("FOIL") and the Town's procedures for responding to FOIL requests.

### **Records Access Officer**

The Town Clerk is the Town's Records Access Officer. The Records Access Officer has the primary responsibility for ensuring that the Town maintains up-to-date listings of records and their location. The name and contact information for the Records Access Officer shall be posted on the Town's website. All requests for public records must be submitted in writing to the Records Access Officer at the Shelby Town Hall, located at 4062 Salt Works Road, Medina, New York 14103. Requests may also be submitted via email at the email address listed on the Town's website,

### ***Hours for Public Inspection***

The Town shall make records available for public inspection and copying during normal business hours, except for those records or portions thereof which may be exempt from disclosure pursuant to State or Federal law.

### **Location of Records**

The Town shall make records available for in-person inspection at the location where the records are stored. The Records Access Officer shall maintain a current list, by subject matter, of all of the records in the Town's possession. The list must indicate the date of its most recent update and shall be updated at least once each year.

### **Fees**

The Town shall charge a fee of \$0.25 per page for pages not exceeding nine inches by fourteen inches for photocopies of records. If the records cannot be photocopied, and are instead maintained on a computer disc, photograph or other medium, the Town may charge the actual cost of reproducing the record. Preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two (2) hours of Town employee time is needed to prepare a copy of the record requested. If more than two (2) hours of a Town employee's time is needed, or if an outside professional service would be retained to prepare a copy of the record, the Records Access Officer shall notify the requestor of the estimated cost prior to preparing a copy of the requested record. In determining the actual cost of reproducing a record, the Town may include only the following types of incurred costs:

- 1) an amount equal to the hourly salary attributed to the lowest paid Town employee who has the necessary skill required to prepare a copy of the requested record;
- 2) the actual cost of the storage devices or media provided to the person making the request in complying with the request; and

- 3) the actual cost to the Town of engaging an outside professional service to prepare a copy of a record, but only when the Town's information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy.

***Procedure for Responding to Record Requests***

The Records Access Officer will respond to requests for access to records under FOIL in accordance with the following procedures:

- 1) Requests for records must be in writing, and must reasonably describe the records sought.
- 2) The Records Access Officer will provide a written response to all requests within five (5) business days either:
  - a. granting or denying access to records in whole or in part;
  - b. informing the requestor that the request, either in whole or in part, does not reasonably describe the records sought. The Records Access Officer shall provide additional direction and/or ask for clarification from the requestor to identify the records sought;
  - c. acknowledging receipt of the request with a statement indicating the approximate date when the request will be granted or denied, which shall be reasonable under the circumstances of the request and shall be no more than twenty (20) business days after the date of such acknowledgement; or if it is known that circumstances prevent disclosure within twenty (20) business days from the date of such acknowledgement, a statement indicating the reason for the Town's inability to grant the request within that time and a date certain; within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part;
- 3) In the event that the written acknowledgement of a request includes an approximate date when the request will be granted or denied within twenty (20) business days of such acknowledgement, but circumstances arise which prevent disclosure within that time, the Records Access Officer shall provide an additional written statement within twenty (20) business days of such acknowledgement specifying the reason for the inability to grant the request within that time and identifying a date certain, within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part.
- 4) If the Records Access Officer does not provide a written response in accordance with the procedure outlined above, the requestor may treat such noncompliance as a denial of access which may be appealed under the process set forth in this policy.

## **Records Not Subject to Disclosure**

The Town shall deny access to records, in whole or in part, that:

- 1) are specifically exempted from disclosure by state or federal statute;
- 2) if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of the New York State Public Officers Law;
- 3) if disclosed, would impair present or imminent contract awards or collective bargaining negotiations;
- 4) constitute trade secrets or are submitted to the Town 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;
- 5) are compiled for law enforcement purposes and which, if disclosed, would:
  - a. interfere with law enforcement investigations or judicial proceedings;
  - b. deprive a person of a right to a fair trial or impartial adjudication;
  - c. identify a confidential source or disclose confidential information relating to a criminal investigation; or
  - d. reveal criminal investigative techniques or procedures, except routine techniques and procedures;
- 6) if disclosed, could endanger the life or safety of any person;
- 7) are inter-agency or intra-agency materials which are not:
  - a. statistical or factual tabulations or data;
  - b. instructions to staff that affect the public;
  - c. final agency policy or determinations; or
  - d. external audits, including but not limited to audits performed by the comptroller and the federal government;
- 8) are examination questions or answers which are requested prior to the final administration of such questions;
- 9) 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;

- 1 0) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law;
- 1 1) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-b of the vehicle and traffic law;
- 12) 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;
- 1 3) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eighty-b of the vehicle and traffic law;
- 14) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-d of the vehicle and traffic law;
- 15) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-e of the vehicle and traffic law;
- 16) are data or images produced by an electronic toll collection system under authority of article forty-four-C of the vehicle and traffic law and in title three of article three of the public authorities law;
- 1 7) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-d of the vehicle and traffic law;
- 18) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred seventy-four-a of the vehicle and traffic law;
- 19) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-e of the vehicle and traffic law;
- 20) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-f of the vehicle and traffic law;
- 21) are photographs, microphotographs, videotape or other recorded images or information and data prepared under authority of section three hundred eighty-five-a of the vehicle and traffic law; or
- 22) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-c-one of the vehicle and traffic law (effective May 3, 2024).

***Appeals Procedure***

- 1) The Town shall form a FOIL Appeals Committee comprised of the Town Supervisor and two (2) Town Board members. Any person denied access to a record may submit a written appeal to the following address:

FOIL Appeals Committee  
Town of Shelby  
4062 Salt Works Road  
Medina, New York 14103

- 2) Appeals must be received no later than thirty (30) days after the date of the denial and 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.
- 3) Upon receipt of the appeal, the Town Clerk shall transmit a copy of such appeal to the Committee on Open Government. Such copy shall be addressed to:

Committee on Open Government  
Department of State  
One Commerce Plaza  
99 Washington Avenue, Suite 650  
Albany, NY 12231

- 4) The FOIL Appeals Committee shall respond in writing within ten (10) business days of receipt of the appeal by either granting access to the records sought or explaining the reasons for further denial. A copy of this response shall also be transmitted to the Committee on Open Government.