

SUPERVISOR
716-778-8531

TOWN CLERK
716-778-8822
FAX 716-638-4183

ASSESSOR
716-778-8827

TAX COLLECTOR
716-778-6052

BUILDING INSPECTOR
716-778-5947

WATER/SEWER
716-778-8132



TOWN OF NEWFANE

2737 Main Street
Newfane, New York 14108
FAX 716-638-4261

JUSTICE COURT
2896 Transit Road
Newfane, New York
14108
716-778-9292
HIGHWAY
716-778-8844
WATER/SEWER
MAINTENANCE
716-778-8587

6176 McKee Street
Newfane, New York
14108

TDD 1-800-662-1220

RESOLUTION #36 -2024

RESOLUTION ESTABLISHING RULES PERTAINING TO PUBLIC ACCESS TO RECORDS OF THE TOWN OF NEWFANE

WHEREAS, Public Officers Law Section 87 requires all Towns in the State of New York to promulgate uniform rules and regulations pertaining to public access to records in said Towns, and

WHEREAS, the Town of Newfane therefore, is required to promulgate uniform rules and regulations pertaining to public access to its records in order to be in compliance with this Statute,

NOW THEREFORE, BE IT RESOLVED, that the Town of Newfane does hereby adopt the following Rules pertaining to public access to records the Town of Newfane,

SEE ATTACHED RULES MADE PART OF THIS RESOLUTION AS EXHIBIT "A"

BE IT FURTHER RESOLVED THAT it is in the best interests of the Town of Newfane to adopt said Rules.

Supervisor **John Syracuse**

AYE _____ NAY _____

Councilman **Richard Coleman**

AYE _____ NAY _____

Councilman **Robert Horanburg**

AYE _____ NAY _____

Councilwoman **Sue Neidlinger**

AYE _____ NAY _____

Councilman **Peter Robinson**

AYE _____ NAY _____

DATED: **DECEMBER 30, 2024**

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“EXHIBIT A”

TOWN OF NEWFANE RULES PERTAINING TO PUBLIC ACCESS TO RECORDS OF THE TOWN OF NEWFANE

1. Purpose and scope
2. Designation of records access officer
3. Location
4. Hours for public inspection
5. Requests for public access to records
6. Subject matter list
7. Denial of access to records
8. Fees
9. Policy on the Release of Employee-Related Information Under FOIL
10. Severability
11. Modification

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." 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 Newfane.

- (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

- (a) The Newfane Town Clerk is responsible for insuring compliance with FOIL and with the policies and procedures established by the Town of Newfane for responding to release of information requests. The Town Clerk, by Town Board Resolution, is designated as Records Access Officer.

3. LOCATION

- (a) Records shall be available for public inspection and copying at Newfane Town Hall, 2737 Main Street, Newfane, NY 14108, unless otherwise specified.

4. HOURS FOR PUBLIC INSPECTION

- (a) Requests for public access to records may be made by appointment with the Town Clerk.

5. REQUEST FOR PUBLIC ACCESS TO RECORDS

A written request shall be required via the Town's standard request form or via email to donna@townofnewfane.com and 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.

- (a) 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. Upon receipt of same, said request shall be time stamped by the Town Clerk or Deputy Town Clerk, which will commence the running of the five-business day period to acknowledge said receipt.
- (b) 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.
- (c) 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.

- (d) If records are maintained on the internet, the requestor shall be informed that the records are accessible via the internet.
- (e) The Town Clerk, or Deputy Town Clerk 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.
- (f) Once the Town Clerk or 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 Town Clerk or 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 requester will be asked to view or pick up the records at the respective department.
- (g) The Town Clerk or Deputy Town Clerk will close the FOIL request once it is satisfied and paid, or it is denied.
- (h) 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 Clerk's Office shall maintain a reasonably detailed current list by subject matter of all records maintained by the Town of Newfane, 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 requester of the right to appeal in writing, within thirty (30) days of the denial, to: Supervisor, Town of Newfane, 2737 Main Street, Newfane, NY 14108, Phone: 716-778-8531.
- (b) The time for deciding an appeal by the Newfane Town Supervisor 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.
 - (4) Said appeal shall include copies of the original request and the Town's response thereto.

- (5) 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.
- (6) The Newfane Town Clerk or the Town Supervisor 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.
- (7) 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, at the sole discretion of the Town.
- (c) Fees for copies may be charged, provided that:
 - (1) The fee for copying records is 25 cents per page for photocopies not exceeding 9 by 14 inches, and/or the actual cost of reproduction.
 - (2) In addition to the fee for copies of records covered by paragraph (1) of this subdivision, 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) The requestor, if required by the Town, will pay a monetary deposit prior to the photocopying of documents. Said deposit will be based upon the estimated cost, as determined by the Town, of the fees required in Paragraph 8 (c) above. 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. POLICY ON THE RELEASE OF EMPLOYEE-RELATED INFORMATION UNDER FOIL

(a) Notification Requirement:

The Town of Newfane will provide notice to current and former public employees if their employment records are subject to a FOIL request. Notification shall occur after the records are released, in line with the legislative intent to ensure minimal notice.

(b) Content of the Notification:

The notification will include a statement informing the employee that their employment records have been released. While there is no requirement to provide a copy of the FOIL request or the released records, the Town will provide any records released to the employee.

(c) Delivery of Notification:

The notice should be delivered in writing, either via regular mail or email, depending on the availability of the employee's contact information. In the event that a former employee is unable to be contacted, all reasonable efforts will be made and these attempts documented. Such notification efforts shall be the responsibility of the Town Clerk.

(d) Disciplinary Records:

The Town will use the definition of "disciplinary records" under Public Officers Law (POL) §86(6) for law enforcement, applying it to non-law enforcement employees. Counseling memos may also be classified as disciplinary records if they relate to employment discipline.

10. 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.

11. MODIFICATIONS

These Regulations may be modified or revised from time to time by resolution of the Town Board.