

**PUBLIC ACCESS TO RECORDS OF THE TOWN OF COLTON
FREEDOM OF INFORMATION LAW (FOIL) POLICY**

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***This policy is written and produced within the New York State FOIL Policy and Open Government Guidelines by Colton
Town Clerk Jennifer Cole, approved through the Town of Colton Board.***

Section 1 | 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.
- (b) These regulations provide information concerning the procedures by which records may be obtained.
- (c) The Town of Colton shall furnish to the public the information and records required by the Freedom of Information Law, 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.

Section 2 | Designation of Records Access Officer:

- (a) The Town Board is responsible for insuring compliance with the regulations herein and designates the following person(s) as Records Access Officer(s): **COLTON TOWN CLERK**. If the Town Clerk is unavailable, the **DEPUTY TOWN CLERK**.
- (b) The Records Access Officer (RAO or FOIL Officer) is responsible for ensuring appropriate agency response to public requests for access to records. The designation of a RAO 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. The RAO 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 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:
 - i. Make records available for inspection; or
 - ii. Deny access to the records in whole or in part and explain in writing the reasons therefore.
 - (5) Upon request for copies of records:
 - i. Make a copy available upon payment , with applicable fees, if any, in accordance with Section 8.
 - (6) Upon request, certify that a record is a true copy.
 - (7) Upon failure to locate records, certify that:
 - i. The Town of Colton is not the custodian for such records; or
 - ii. The records of which The Town of Colton is a custodian cannot be found after diligent search.

Section 3 | Location:

Records shall be available for public inspection, unless another location has been agreed upon between the requesting party and the RAO, at:

Colton Town Clerk's Office
94 Main Street
Colton, NY 13625

Section 4 | Hours for Public Inspection:

Requests for public access to records shall be accepted and records produced during hours regularly open for business.

Hours of Operation: Monday through Thursday 8:30 am - 4:00 pm; excluding federal holidays. Any changes to this schedule will be posted through the Town of Colton's Facebook page.

Section 5 | Requests for Public Access to Records:

- (a)** A written request is required, but oral requests may be accepted when records are readily available.
- (b)** Only one FOIL request may be submitted at one time.
 - (1) Example of One Request: Town Budget for years 2019 – 2023
 - (2) Two or More Requests: Town Budget for years 2019 – 2023, Board Minutes for 2019 – 2023, Building Permits for 2019 – 2023
Each of these subjects would be considered separate FOIL requests.
- (c)** If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet, or through printed form with the associated fee structure in Section 8.
- (d)** A response shall be given within five business days of receipt of a request by:
 - (1) informing the person requesting records that the whole 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 twenty business days after the date of the acknowledgment;
 - i. if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, a statement will be provided in writing indicating the reason for the inability to grant the request within that time; and,
 - ii. a reasonable period to obtain such request will be provided by a date within the statement and if the request will be granted in whole or in part.

- (4) if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty 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 in whole or in part.
- (e) 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 , (***locating the records in a situation that might involve a search for the “needle in the haystack”, an agency is not required to engage in that degree of effort***) 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, additional agency guidance required, and similar factors that influence on the ability to grant access to records promptly and within a reasonable time.
- (f) 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, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request; or,
 - (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; or,
 - (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; or,
 - (4) fails to respond to a request within a reasonable time after the approximate date given or within twenty business days after the date of the acknowledgment of the receipt of a request; or,
 - (5) determines to grant a request in whole or in part within twenty 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; or,
 - (6) does not grant a request in whole or in part within twenty 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 in whole or in part; or,
 - (7) responds to a request, stating that more than twenty 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; or,
 - (8) any appeal submitted prior to receiving the requested information in full, as stated within the FOIL acknowledgement communication, within the designated suspense date is required to be resubmitted after the suspense date has passed.
- (g) A requestor is required to provide their preferred format of receiving the requested FOIL, such format will be adhered to within the best of the ability by the FOIL Officer, however, the Town of Colton’s programs and formats will be taken into consideration, may affect the deliverable method, and may have fees associated in accordance with Section 8. Any variance to the preferred method will be discussed with and approved by the requestor prior to completing the request.
- (h) Upon submission of a FOIL, a reference number will be assigned to ensure appropriate tracking.
- (1) The reference number should be used in all communications regarding the FOIL.

- (2) The reference number will provide efficiency throughout processing, distributing between department(s) as applicable, and time tracking for said request.

Section 6 | Denial of Access to Records:

- (a) Denial of access to records shall be in writing stating the reason therefore and advising the requester of the right to appeal to the individual or body established to determine appeals, [who or which] shall be identified by name, title, business address and business phone number.
- (b) If requested records are not provided promptly, as required in Section 5 of these regulations, such failure shall also be deemed a denial of access.
- (c) Any person denied access to records may appeal within thirty days of a denial.
- (d) The following person shall determine appeals regarding denial of access to records under the Freedom of Information Law:
Councilman Stephen Knight
94 Main Street
Colton, NY 13625

stephen.knight@townofcolton.com
- (e) The time for deciding an appeal by the individual or body designated to determine appeals shall commence upon receipt of a written appeal identifying:
(1) the date and location of requests for records; and,
(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 ten 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.
- (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 ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth subdivision (g) of this section.
- (i) Upon receiving notice of appeal from a requestor, the original FOIL reference number will be utilized with an "A" on the end. For example: 2023-01-01-01 (original), would then become 2023-01-01-01-A.

- (1) The reference number should be used in all communications regarding the FOIL.
- (2) The reference number will provide efficiency throughout processing, distributing between department(s) as applicable, and time tracking for said request.

Section 7 | Fees:

- (a)** There shall be no fee charged for:
 - (1) inspection of records; or,
 - (2) search for records; or,
 - (3) any certification pursuant to this part.

- (b)** Fees for copies may be charged, provided that:
 - (1) the fee for copying records shall not exceed \$0.25 cents per page for photocopies not exceeding 9 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 cents for such copies;
 - (2) the fee for photocopies of records in excess of 9 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; or
 - (4) said referenced fees will be charged in accordance with the above and as the RAO deems appropriate.

- (c)** 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.
 - i. Examples of outside agencies include but are not limited to the Town Attorney, specialized attorney relating to the subject matter, or New York State.
 - ii. Such charges will be estimated preemptively when possible, such charges will be communicated to and approved by the requestor prior to continuing with the FOIL request.
 1. Due to unknown response times of such agencies, the response and due dates to the requestor may need adjusting to account for the

- (d)** 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 non-electronic 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 paragraph (d)(1) and (2) above.

- (e) 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.
- (1) the estimated fee(s) will be provided to and approved by the requestor prior to continuing with the FOIL request; or,
 - (2) an agency may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.
- (f) The RAO may waive a fee in whole or in part when making copies of records available.

Section 8 | Public Notice:

A notice containing the title or name and business address of the RAO and appeals person or body and the location where records can be seen, or copies shall be posted in a conspicuous location wherever records are kept.

Section 9 | Severability:

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

APPENDIX A:

PUBLIC NOTICE

YOU HAVE A RIGHT TO SEE PUBLIC RECORDS

The amended Freedom of Information Law, which took effect on January 1, 1978, gives you the right of access to many public records.

The Town of Colton has adopted regulations governing when, where, and how you can see public records.

The regulations can be seen at all places where records are kept. According to these regulations, records can be seen at:

**Town of Colton
Town Hall
94 Main Street
Colton, NY 13625**

The following officials will help you to exercise your right to access:

Records Access Officers Town Clerk Jennifer Cole
Deputy Town Clerk Brittney Gravlin
94 Main Street
Colton, NY 13625

clerk1@townofcolton.com

If you are denied access to a record, you may appeal to the following person(s):

FOIL Appeal Officer Stephen Knight
94 Main Street
Colton, NY 13625

stephen.knight@townofcolton.com

APPENDIX B:

Freedom of Information Law (FOIL)

The Freedom of Information Law (FOIL), set forth in Article 6 of the Public Officers Law (§§84-90), is designed to ensure public access to government records. Under FOIL, an agency must make records available for public inspection and copying, except to the extent that records or portions thereof fall within one or more grounds for denial.

Submitting a FOIL Request:

- 1) *Include only one FOIL request per submission* to allow for appropriate tracking, servicing, and communication of all FOIL requests by the FOIL Officer.
- 2) The record request must be as specific as possible for the FOIL request to be completed sufficiently.
- 3) Specify where and how to send the record (mail, email, pickup, or fax).

Be Advised: Any FOIL request requiring over two hours of labor will be subjected to charges as per the Public Officers Law §87(1): Authorizing an agency to charge a fee of \$0.25 per copy for copies of records up to 9x14 inches, or the actual cost of reproducing the record. Please understand a record requires review prior to release, as a result, the record may not be immediately available. Any anticipated charges will be communicated to and approved by the FOIL requester prior to continuing with the request.

How to Submit a FOIL Request to the Town of Colton:

- 1) Email: clerk1@townofcolton.com
- 2) Mail: Town of Colton – Records Access Officer
94 Main Street
Colton, NY 13625
- 3) In-person: Written requests may be submitted to the Town of Colton, Clerk’s Office, 94 Main Street, Colton, NY 13625, between 8:30am – 4pm, Monday through Thursday.

After Submitting the FOIL Request:

Within five business days of receipt of a written request for a record reasonably described, the FOIL Officer (Records Access Officer) will send you a response either: making such record available; written denial of such request; or furnishing a written acknowledgement of the receipt of such request.

Denied FOIL - How to Appeal:

You will be notified in writing if the Records Access Officer denies access to records in whole or in part. You have the right to appeal, but you must do so within 30 business days of notice of the denial. An appeal must be filed in writing. Please include a copy of the original request for records, a copy of the FOIL response you received, and your appeal.

- 1) Email: stephen.knight@townofcolton.com
- 2) Mail: Town of Colton – Records Access Appeal Officer
94 Main Street
Colton, NY 13625

Questions or concerns? Review the FOIL Policy at the Town of Colton’s website or contact the FOIL Officer at 315-262-2810 ext1.