

CHAPTER 55

RECORDS

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(History: Adopted by the Town Board of the Town of Henderson as indicated in article histories. Amendments noted where applicable.) Amended § 55-7, Fees for copies on September 11, 2008

**ARTICLE I
Public Access
(Adopted 1-5-1994)**

§ 55-1. Purpose

The Town of Henderson is required to adopt a policy of rules and regulations for reviewing and obtaining records information requests by the public which conforms with the regulations issued by the Committee on Open Government under the Freedom of Information Law, which is found in Public Officers Law Article 6, §§ 84 – 90.

§ 55-2. Definitions

As used in this article, the following terms shall have the meanings indicated:

AGENCY:

- A. The Town of Henderson and its municipal departments, board, bureaus, division, commissions, committees, public authorities, public corporations, councils, offices or other entities performing a governmental or proprietary function for the Town of Henderson as created or appointed by the Town Board and/or Town Supervisor.

- B. Any district or entity having its own separately elected government body, not under the control of the Henderson Town Board and/or the Town Supervisor, such as the Henderson Fire District, shall not be considered as part of the agency as defined in this policy.

RECORD:

- A. Any information kept, held, filed, produced or reproduced by, with or for any Town of Henderson agency or entity, as defined above, 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 disks, rules, regulations or codes.
- B. Any documentation as identified in Public Officers Law § 80, Subdivision 4.

RECORDS MANAGEMENT ACCESS OFFICER:

- A. The person responsible for responding to requests for information under the Freedom of Information Law in compliance with the regulations issued by the Committee on Open Government as set forth in Public Officers Law Article 6, §§ 84 to 90.
- B. The agency designates the Town Clerk, Town of Henderson, PO Box 259, Henderson, New York 13650, as Records Management Access Officer.

§ 55-3 Requirements.

The Records Management Access Officer shall be responsible for assuring that the agency personnel comply with the following:

- A. Requirements and provisions of the Freedom of Information Law.
- B. Rules and regulations of the Committee on Open Government.
- C. Resolution adopting the policy providing access of agency records to the public.
- D. Maintain a complete, current listing of all obtainable reports, records and subject matter available, with revisions and updates done immediately as new documentation is created, making the list available for public inspection and copying upon request.
- E. All freedom of information requests will be stamped with the date the request is received
- F. A log will be maintained of all requests received and will include the following
 - (1) Date request is received.
 - (2) Name of requestor.
 - (3) Information requested.
 - (4) Name of agency personnel contacted.
 - (5) Date agency personnel are contacted.

- (6) Date information was released or denied.
- (7) Explanation of denial, if applicable.
- (8) Method of transfer of information

§ 55-4. Procedure upon receipt of request.

Upon receipt of a request for information, the Records Management Access Officer will contact the appropriate agency personnel by phone, within two business days, informing them of the context of the request and ascertaining when the requested information will be available for inspection and review.

§ 55-5. Response to requestor

Within five business days, the Records Management Access Officer will respond in writing to the requestor, indicating when the information will be available for their review, deny it in writing, or furnish a written acknowledgment of the receipt of the request with a written statement of the approximate date when the record will be granted or denied, as well as where such documentation will be available for inspection.

§ 55-6. Denial of request.

In the event that a request is denied, a written response explaining the reasons for denial will be forwarded to the requestor advising him or her of the right to appeal this decision. The appropriate information will be supplied outlining the appeals procedure indicating the name(s), title(s), business address(es) and telephone number(s) of the person(s) to whom the appeal request must be submitted.

§ 55-7. Fees for copies

Fees for copies of records requested shall be set at \$0.25 per photocopy, not in excess of nine inches by 14 inches, or actual cost of reproduction of other records, unless a different fee is established by statute. Upon request, the Records Management Access Officer shall calculate in advance the total cost of the copies of the records requested.

- A. Copies of information will be provided free of charge to committees formed by the Town Board as long as the information relates to the mandate of the committee and complies with established guidelines for submitting and granting a freedom of information request. The request should be made by the committee chairman and noted in the committee minutes based on the majority approval of the committee.
- B. Copies of any information that relates to the current year will be provided to any town board member free of charge as long as it complies with established guidelines for submitting and granting a freedom of information request. In addition copies of any information that requires research and pulling of past records be provided free of charge only if ordered and approved by resolution of the town board.

§ 55-8. Records access requests.

Records access requests will be accepted through the office of the Town Clerk, Town of Henderson, during the Clerk's regularly scheduled business hours or may be mailed to the Town Clerk, Town of Henderson, PO Box 259, Henderson, New York, 13650.

§ 55-9. Limitations.

Whereas the public does clearly have access to public records, the law does not require that the local official immediately respond to a request or demand off the street. Also, the law does not require that a record be made if a record does not already exist. This means that the official would not be required to compile facts and figures from other sources or do research or new tabulations to create the information requested.

§ 55-10. Excepted records

Not all records are available, and the law does list numerous exceptions which are identified in § 87 of Public Officers Law. These exceptions include, but are not limited to, such items as "unwarranted invasion of personal privacy," bargaining negotiations, trade secrets, collections and certain law enforcement and law enforcement personnel.

§ 55-11. Procedure for submission of requests.

Submission of requests for access to public records will adhere to the following procedures:

- A. The Records Management Access Officer will maintain, and have available for review to the requestor a complete, current list of all records, reports and information available for public access and inspection.
- B. All requests for information will be submitted in writing to the Records Management Access Officer specifying whether the request is only for viewing of the information or if actual copy of the documentation is required.
- C. Each submitted request for information shall clearly and reasonably describe and specify the information requested.
- D. The requestor will also provide a phone number where he or she may be contacted during the Clerk's regularly scheduled business hours and include a mailing address where the requested information may be forwarded.
- E. The Records Management Access Officer will respond, in writing to all submitted requests for records with five business days of the receipt of each request.
- F. Each response to a request for information shall clearly identify when and where the documentation will be available for viewing or inspection. Requests identifying copies of documentation only will have information forwarded to the requestor at the address identified in their request or will be made available to the requestor through special arrangements with the Records Management Access Officer.
- G. In the event that a request for access to agency records is denied, the requestor may file an appeal of this decision with the Henderson Town Board, P.O. Box 259, Henderson, New York, 13650.

- H. The Henderson Town Board is designated to hear and determine appeals from a denial of access to agency records, in accordance with the Freedom of Information Law, and the rules and regulations of the Committee on Open Government.
- I. Ultimately, a person who is denied access to a record(s) may review the decision in an Article 78 proceeding.

§ 5512. Opinions of Committee on Open Government.

The Department of State houses the Committee on Open Government and, through its Executive Director, issues written opinions on both the Freedom of Information Law and the Open Meetings Law. These opinions are available to the general public.

ARTICLE II
Archival and Historical Records Policy
[Adopted 3-9-1994]

§ 55-13. Purpose; designation of Records Management Officer.

The Local Government Records Law (Article 57-A Arts and Cultural Law) includes provisions relating to local government's records management and the responsibility of the Commissioner of Education to provide records management advice and assistance to local governments. The law requires local governing bodies and chief executives to "promote and support a program for the orderly and efficient management of records, including the identification and appropriate administration of records with enduring value for historical or other research." Each local government must designate a Records Management Officer (RMO) to "coordinate the development of and oversee" their records management program. The law specifies that the Town Clerk shall be the RMO.

§ 55-14. Records management program.

The records management program shall include the following:

- A. A survey and inventory of archival and historical records.
- B. Development of filing systems.
- C. Review of requests for filing equipment.
- D. Coordination of micrographics.
- E. Off-site inactive storage.
- F. Centralized destruction of obsolete records.
- G. Analysis and planning for informational systems.
- H. Development of automated systems.

I. Maintenance and reference of archival and historical records.

§ 55-15. Archival records.

Archival records of local governments are created for the eventual use of the Town Historian and the public at large. Local government archival records are those with enduring legal, fiscal, administrative or historical research value, and grown from the routine of government and have as their main reason for permanent retention their ongoing utility. The Town of Henderson archives should always be an integral subset of a comprehensive records management program serving the overall information needs of its government and citizens. The Town of Henderson archives hold the long-term records needed to document property, maintain infrastructure, prove precedents, provide adequate reportage and serve as a basis for comprehensive planning. They define the responsibilities and the prerogatives of government and protect the rights and property of citizens. They assist the local government to defend itself in court or to bring suit, to prepare environmental impact statements or to qualify for federal community development money. By the passage of time, archival records become historical records.

§ 55-16. Primary contact; regulations regarding access.

The Records Management Officer shall be the primary contact responsible for accessing Town of Henderson archival and historical records; however, department heads and the Town Supervisor are also authorized to receive and in certain instances comply with requests for access to archival or historical records when or to the extent the RMO is unavailable. In addition, the Town Historian is also authorized to access the town's historical records in the event that the RMO is unavailable. Department heads may only access documentation from their departments. Any documentation required from other areas will be accessed through the other officers. All authorized personnel will comply with the following regulations regarding access to archival or historical documentation:

- A. Requirements and provisions of the Local Government Records Law.
- B. Resolution adopting the policy providing access of Town of Henderson archival or historical records to the public.
- C. Maintain a complete, current listing of all obtainable reports, records and subject matter available, with revisions and updates done immediately as new documentation is created, making the list available for public inspection through the RMO.
- D. All archival or historical records access requests will be stamped with the date the request is received.
- E. A standard form of log will be maintained of all requests received and will include the following:
 - (1) Date request is received.
 - (2) Name of requestor.
 - (3) Information or subject matter requested.
 - (4) Names of agency personnel contacted, if applicable.

- (5) Date agency personnel are contacted, if applicable.
 - (6) Date information was accessed or scheduled to be available for review.
 - (7) Name of official present at the time records were reviewed.
- F. Upon receipt of a request for access to archival or historical records, the RMO will contact the appropriate agency personnel by phone, within two business days, informing them of request and ascertaining when the requested documentation will be available for inspection and review.
- G. Within five business days, the RMO will respond in writing to the requestor, stating when and where the documentation will be available for review, or stating that the request must be denied, with the reason for such denial.
- H. Archival or historical records access requests will be accepted through the office of the Town Clerk, Town of Henderson, during the Clerk's regularly scheduled business hours or may be mailed to the Records Management Officer, Town of Henderson, P.O. Box 259, Henderson, New York, 13650.

§ 55-17. Procedure.

Submission of requests for access to archival or historical records will adhere to the following procedures:

- A. The RMO will maintain and have available for review for the requestor a complete, current list of all records, reports, documentation and information available for public access and review.
- B. All requests for access to information of an archival nature will be submitted in writing to the RMO or, if he/she is unavailable, to the Town Supervisor or town department heads, who shall forward the request to the RMO.
- C. All requests for access to information of a historical nature will be submitted in writing to the RMO or, if he/she is unavailable, to the Town Supervisor, town department heads, or to the Town Historian, who shall forward the request to the RMO.
- D. Each request for access shall clearly describe the documentation requested.
- E. The requestor will also provide a phone number where he or she may be contacted during the Town Clerk's regularly scheduled business hours and include a mailing address where correspondence may be directed with regard to scheduling a time for access of records.
- F. The RMO, or any official receiving a request for archival or historical records access, will respond, in writing, to all submitted requests for access of records within five business days of the receipt of each request.
- G. Each response to a request for documents shall clearly identify when and where the documentation will be available for reviewing or inspection or, if the requested documentation is not readily retrievable, the date when the RMO will inform the requestor as to when and where the documentation will be available.
- H. Access to archival or historical records will be by previously scheduled appointment only. The public will not be allowed to access any records by request or demand off the street.

- I. Review of archival information will only be allowed in the presence of either the RMO, Town Supervisor or town department heads.
- J. Review of historical information will only be allowed in the presence of either the RMO, Town Supervisor, town department heads or the Historian.
- K. Under no circumstances will records be allowed to be removed from the town office by any individual requesting access to archival or historical documentation
- L. Requestors may make any and all notes they deem necessary in their review of archival or historical documentation, however, no notations may be made on any of the documents being reviewed by the requestor.
- M. Pencils will be the only writing instrument allowed to be utilized in the review of any archival or historical documentation.
- N. Records within files or containers must be maintained in the manner and order they are originally filed and may not be changed in any way by the requestor during the course of the document review process.
- O. Copies of any documentation will only be available after the RMO is able to ascertain from the appropriate agencies whether irreparable damage would occur to the documentation if the same is photocopied. In the event of any possible damage to the documents, copies will not be available to the requestor. If no such damage will be incurred by photocopying, the requestor may have copies of the documentation requested.
- P. In the event that copies are available to the requestor, a fee of \$0.25 per photocopy, not in excess of nine inches by 14 inches, or actual cost of reproduction of other records, or such other fee as established by statute, is required prior to delivery of such copies.

§ 55-18. Relationship to Public Access to Records Law.

The procedures set forth above shall not supersede the provisions of the Public Access to Records Law, which provisions shall control in the event of ambiguity or conflict.