

**TOWN OF ULSTER**  
**Freedom of Information Policy FOIL POLICY**

TOWN OF ULSTER Freedom of Information Policy

**PURPOSE.**

The purpose of this policy is to provide clarification and guidance regarding Freedom of Information requests by members of the public. Except as otherwise provided by federal law or state statute, the Freedom of Information Act, guarantees public access to all public records maintained or kept on file by the Town of Ulster.

**POLICY.**

- a) The goal of the Town of Ulster is to courteously and promptly provide requested information in compliance with the law. All the town records are available for inspection during regular business hours. Certain records such as payroll records, employment records, vital statistics, and other documents that contain confidential and personal information, including Social Security numbers, personal bank account information and medical information are not open for public inspection. Full or limited access to these records may be available in accordance with NYS FOIL Law.

Any concern regarding whether a particular item may be disclosed should be promptly addressed to the office of the Town Clerk, and possibly then referred to the Town Attorney. If copies of any documents are requested, payment must be made in compliance with the fee schedule established in the Town Code.

- b) The Town of Ulster's Freedom of Information Law (F.O.I.L) request form should be completed for any document not readily available for public inspection and delivered to the Office of the Town Clerk. Request forms are available at all Town Offices and on the Town website – <http://townofulster.ny.gov>. Completed FOIL requests will be promptly

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forwarded to the appropriate department to obtain the requested information. The Town Clerk's Office will respond to the requester within five business days, from the date of receipt of the request, either by providing the material, denying the request, asking for clarification, or if the material requested is voluminous or requires research, will establish a reasonable date as to when the documents will be made available.

- c) When copies are not requested, individual departments may arrange, with the applicant, for public inspection of requested information after a FOIL Request submittal to the Town Clerk's Office, subject to disclosure per statute. Public inspection may take place in the departmental office if it does not create an impediment to the work being done in that department, or may be viewed in the Town Clerk's Office.
- d) When copies are requested, they will be made available at the Town Clerk's office. Payment must be received prior to the release of requested documents. The Town of Ulster has no legal obligation to, and will not perform any analytical work, studies, investigations, calculations, program reviews or create any documents in response to a F.O.I.L request. If information exists and is not in a draft form, it will be provided.

## **POLICY ON THE RELEASE OF EMPLOYEE-RELATED INFORMATION UNDER FOIL**

### **Purpose:**

Pursuant to Article 6 of the Freedom of Information Law (FOIL), Chapter 302 of the Laws of 2024, all agencies must develop a policy to notify public employees if their disciplinary records are being released in response to a FOIL request. This policy shall ensure the proper notification requirements, contents of the notification, delivery of the notification and define the records to be released.

### **Definitions:**

FOIL - Freedom of Information Law (also referred to as Public Officers Law, Article 6, Sections 84-90)

Record - any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, 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.

### **Notification Requirement:**

The Town of Ulster 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.

**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.

**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.

**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.

**DOCUMENTS EXEMPTED FROM FOIL ARE AS FOLLOWS.**

- A. Are specifically exempted from disclosure by state or federal statute;
- B. If disclosed would constitute an unwarranted invasion of personal privacy. An unwarranted invasion of personal privacy includes, but shall not be limited to:
  - (1) Disclosure of employment, medical or credit histories or personal references of applicants for employment;
  - (2) Disclosure of items involving the medical or personal records of a client or patient in a medical facility;
  - (3) Sale or release of lists of names and addresses if such lists would be used for commercial or fund-raising purposes;
  - (4) Disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or maintaining it;
  - (5) Disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency; or
  - (6) Information of a personal nature contained in a workers' compensation record, except as provided by section one hundred ten-a of the workers' compensation law.
- C. If disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- D. Are trade secrets or are submitted to an agency 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;

- E. Are compiled for law enforcement purposes and which, if disclosed, would:
  - (1) Interfere with law enforcement investigations or judicial proceedings;
  - (2) Deprive a person of a right to a fair trial or impartial adjudication;
  - (3) Identify a confidential source or disclose confidential information relating to a criminal investigation; or
  - (4) Reveal criminal investigative techniques or procedures, except routine techniques and procedures;
  - (5) If disclosed could endanger the life or safety of any person;
  - (6) 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;
- F. Are examination questions or answers which are requested prior to the final administration of such questions;
- G. If disclosed, would jeopardize an agency's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures; or
- H. Are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law.

Unless otherwise provided by this article, disclosure shall not be construed to constitute an unwarranted invasion of personal privacy pursuant:

- A. when identifying details are deleted;
- B. when the person to whom a record pertains consents in writing to disclosure;
- C. when upon presenting reasonable proof of identity' a person seeks access to records pertaining to him under the provisions of New York State Public Officers Law, Article 6, Sections two of section eighty-nine;

## **PROCESS.**

- A. Any person may request the "Freedom of Information Law Request" form from any of the Town's Offices.

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- B. The public may publicly view any information that is readily available. If copies are desired, a F.O.I.L. request form must be filled out.
- C. F.O.I.L. request form must be completed and submitted to the office of the Town Clerk.
- D. Requests will be promptly disseminated to the appropriate department.
- E. Any questions regarding the legality of the request will be promptly addressed by the Town Clerk with possible consultation of the Town Attorney.
- F. Within five business days the department shall provide the information, issue a letter to the requestor denying request, ask for clarification of request or inform the requestor of a reasonable date when the information will be made available.

**FEES.**

- A. \$ 0.25 per letter or legal size page for all copies requested.
- B. Larger than letter/ legal size paper documents shall equal the transcription costs of the Department/Agency. Large format copies are subject to costs set by the town fee schedule.
- C. Actual cost of storage media provided e.g.: maps, compact disk, tape, etc.
- D. Electronic documents which can be electronically transmitted will be free of charge but the cost of the media to host such documents may be charged at cost unless provided by the requestor.
- E. Preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of agency employee time is needed to prepare a copy of the record requested. The fee amount in this case is equal to the hourly salary attributed to the lowest paid agency employee who has the necessary skill required to prepare a copy of the requested record.