

LOCAL LAW #1 OF 2006
A LOCAL LAW AMENDING LOCAL LAW #1 OF 1994, ESTABLISHING REGULATIONS
GOVERNING PUBLIC ACCESS TO RECORDS
ADOPTED FEBRUARY 23, 2006

Amendment. Chapter 186, Records, of the Village of Horseheads Code is deleted in its entirety. The following is inserted in its place and stead.

Section 1. Purpose.

- A. These regulations are established pursuant to Article 6 of the Public Officers Law (Freedom of Information Law).
- B. These regulations establish the procedures by which records of the Village of Horseheads may be obtained for inspection, and copies thereof obtained.
- C. Personnel of the Village shall furnish to the public the information and records required by law subject to the conditions and limitations contained in Subdivisions 2 and 7 of Section 89 and Subdivision 2 of Section 87 of the Freedom of Information Law, or other provisions of law. It is specifically noted that access to and copies of court records are governed by Section 255 of the Judiciary Law.
- D. 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. Access to such information and records should not be thwarted. Any conflicts among laws governing public access to records should be construed in favor of the widest possible availability of same.

Section 2. Designation of Records Access Officer (RAO).

- A. The Village Manager shall be responsible for insuring compliance with these regulations. The Village Clerk is designated as the Records Access Officer(s).
- B. The Records Access Officer(s) shall be responsible for assuring appropriate response to public requests for access to records and copies thereof. The Records Access Officer(s) shall assure that appropriate personnel are adequately instructed in and properly perform the functions described in these regulations and shall supervise the administration of same.
- C. The Records Access Officer(s) shall respond to requests, in accordance with Section 4B hereof, for an itemized record setting forth the name, public office address, title and salary of all or a portion of the officers and employees of the Village subject to the conditions and limitations of the Freedom of Information Law. Any person who requests such information or records may be required to provide an indication of the purpose for which the information is sought.

Section 3. Location of Records and Hours for Inspection.

- A. Records shall be available for public inspection and copying at the Village Hall, 202 South Main Street, Horseheads, New York 14845, or at the location where they are kept subject to the discretion of the Records Access Officer.
- B. Requests for public access to records shall be accepted and the records produced during all hours during which the Village Clerk's Office is regularly open for business except that all records must be returned to their proper custodian at least 15 minutes

before such Office's closing time.

Section 4. Request for Access.

- A. A written request may be required, but oral requests may be accepted when records are readily available.
- B. A request shall reasonably describe the record(s) sought. Whenever possible, the person requesting records shall supply information regarding dates, file designations, titles or other information which may help to identify or describe the records sought.
- C. Personnel of the Village who have been specifically authorized by the Village Manager or Records Access Officer shall assist the requestor in identifying requested records.
- D. The RAO shall, within five (5) business days of receipt of a written or oral request for a record reasonably described, make such record available to the person requesting it, deny such request in writing, or furnish a written acknowledgment of such receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with Public Officers Law Section 89 Subdivision 5. If the RAO determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record(s) within twenty (20) business days from the date of acknowledgment of receipt of the request, the RAO shall state, in writing, both the reason for the inability to grant the request within 20 business days, and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part.

Section 5. Subject Matter List.

- A. The Records Access Officer shall maintain a reasonably detailed current list, by subject matter, of all records produced, filed, kept or in its possession, whether or not records are available pursuant to Section 87(2) of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than semi-annually. The date of the most recent update shall appear on the first page of such list.

Section 6. Inspection and Copying of Records.

- A. The person who has requested access to public records of the Village shall be given full opportunity to see and inspect such records, unless access is denied as provided herein in whole or in part or pursuant to the Freedom of Information Law.
- B. The requestor may also make a copy of the records he inspects, but no records shall be removed from the office where it is located without the written permission of the person in charge of the office or location at that time.
- C. Upon request and payment of the established fee, if any, the appropriate officer or authorized personnel shall prepare and deliver a transcript or copy of such

record(s).

- D. Upon request and payment of the established fee, if any, an appropriate official of the Village shall certify as correct a transcript prepared by the custodian of the records.

Section 7. Denial of Access to Records.

- A. Denial of Access to Records shall be in writing stating the reason therefor and advising the requestor of the right to appeal such denial as herein provided.
- B. If requested records are not promptly provided as required herein such failure shall also be deemed a denial of access.
- C. The Village Manager shall hear appeals for denial of access to records under the Freedom of Information Law and this local law.
- D. The time for deciding an appeal to the Village Manager shall commence upon the Village Manager's receipt of a written appeal identifying 1) the date of the appeal, 2) the date and location the request for records was made, 3) the records to which the requestor was denied access, 4) whether the denial of access was in writing or by failure to provide records promptly as provided herein, 5) a copy of the written denial, if any, and 6) the name and address of the requestor.
- E. The Village Manager shall transmit to the Committee on Open Government copies of all appeals upon receipt of same (Committee on Open Government, Department of State, 162 Washington Avenue, Albany, New York 12231).
- F. The Village Manager shall inform the requestor and the Committee on Open Government of the Village Manager's determination in writing within 10 business days of receipt of an appeal.
- G. Final denial of access to a requested record, as provided herein, shall be subject to court review as provided in Article 78 of the Civil Practice Law and Rules.

Section 8. Fees.

- A. There shall be no fee charged for 1) inspection of records, or 2) search for records.
- B. The fee for a copy of a record, not exceeding 8 ½" x 14" shall be \$0.25 per photocopy, or the actual cost of reproducing any other record, except where a different fee is otherwise prescribed by statute. The Village Manager is granted discretion, in his sole determination, to waive such fees across the board or on a case by case basis.
- C. The fee for a transcript that is typed, handwritten or otherwise prepared by hand shall cover the clerical time involved in making the transcript, including comparison for accuracy.
- D. The Village Board reserves the right to set or establish a fee or charge for certification of copies and/or transcripts of records by resolution and to change the same from time to time.

Section 9. Public Notice. A notice containing the title, name, and business address of the Records Access Officer, the appeals body, and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper

of general circulation in the Village.

Section 10. Repealer. Any code, local law, ordinance or resolution of the Village in conflict or inconsistent herewith is hereby repealed to the extent of such conflict or inconsistency except that this repeal shall not effect or prevent the prosecution or punishment of any person for any act done or committed in violation of any local law, ordinance or regulation hereby repealed prior to the taking effect of this local law.

Section 11. Severability. If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by a court of competent jurisdiction to be invalid, such judgement shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 12. Effective Date. This local law shall take effect as provided by law upon filing with the Secretary of State of New York.