



**Town of Moira**

P.O. Box 150

522 County Route 6

Moira, NY 12957

## **Town of Moira, New York**

### **Freedom of Information Law (FOIL) Policy**

The Freedom of Information Law (Public Officers Law §§ 84–90) requires that the Town of Moira (Town) make certain records available to the public. The law requires each Town to designate records access officers. Requests for information from the Town should be directed to the respective records access officer.

All requests for information must be acted upon within five business days. If the Town is unable to answer an applicant's request within five days of receipt, it must acknowledge the request and inform the applicant of the approximate and reasonable time when the request will be answered. If the records access officer determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the Town shall state, in writing, both the reason for the inability to grant the request within twenty 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.

An applicant may appeal if the Town has not acted within ten business days of the acknowledgment. The Town may either grant or deny access to the records requested or certify that it does not have or cannot find the records after a diligent search. Records involving trade secrets are subject to separate procedures and requirements under the Freedom of Information Law (FOIL). Appeals from a denial of access may be made within 30 days.

#### **1. *Designation of records access officer***

- a. The Moira Town Board are responsible for ensuring compliance with these policy requirements. The Town Clerk shall serve as records access officer.
- b. Records access officers are responsible for ensuring appropriate Town response to public requests for access to records. The designation of records access officers 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. Records access officers shall ensure that personnel:
  - i. maintains an up-to-date subject matter list;

- ii. assist the requester in identifying requested records, if necessary;
- iii. take one of the following actions upon locating records:
  - make records available for inspection; or
  - deny access to the records in whole or in part and explain in writing the reasons therefore;
- iv. upon request for copies of records, make a copy available upon payment of 25 cents per page;
- v. upon request, certify that a record is a true copy; and
- vi. upon failure to locate records, certify that:
  - the Town is not the custodian of such records; or
  - the records of which the Town is a custodian cannot be found after diligent search.

## **2. Location**

Records shall be available for public inspection and copying at the records access office or at the location at which they are maintained.

## **3. Hours for public inspection**

Requests for public access to records shall be accepted and records produced during all regular business hours.

## **4. Requests for public access to records**

- a. A written request may be required, but oral requests may be accepted when records are readily available.
- b. A response shall be given, regarding any request reasonably describing the records or records sought, within five business days of receipt of the request.
- c. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- d. If the records access officer does not provide or deny access to the record sought within five business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the

approximate date, which shall be reasonable under the circumstances of the request, when the request will be granted or denied. If the records access officer determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the records access officer shall state, in writing, both the reason for the inability to grant the request within twenty 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.

e. Provided the records access officer has reasonable means available, he or she shall accept requests for records submitted in the form of electronic mail and shall respond to such requests by electronic mail, provided that the written requests do not seek a response in some other form.

f. Failure by the records access officer to comply with the time limitations described herein shall constitute a denial of access.

## **5. *Subject matter list***

The Town shall maintain a reasonably detailed current list, by subject matter, of all records in its possession, whether or not records are available pursuant to subdivision 2 of section 87, of the NYS Public Officers Law (Freedom of Information Law).

## **6. *Records containing trade secrets***

a. Any person who submits records to the Town may request that the Town except such records or parts of such records from disclosure as trade secrets pursuant to sections 87(2) (d) and 89(5) of the Public Officers Law. The request for an exception shall be made in writing to the records access officer at the Town where the records have been submitted and shall state the reasons why the records should be excepted from disclosure. Such records shall be excepted from disclosure and maintained apart from all other records until 15 days after the entitlement to such exception has been finally determined.

b. The records access officer shall, at any time, or upon receipt of a request for access to such records, determine whether the request for exception will be granted, continued, terminated or denied. Before doing so, the record access officer shall:

i. notify the person who requested the exception that a determination is to be made whether such exception should be granted or continued; and

ii. permit the person who requested the exception, within 10 business days of receipt of such notification, to submit a written statement of the necessity for granting or continuing such exception.

c. Within seven business days of receipt of such statement or of the expiration of the period prescribed for submission of such statement, the records access officer shall issue a written determination granting, continuing, terminating or denying the exception and stating the reasons therefore. Copies of such determination shall be transmitted to the person, if any, requesting the records, the person who requested the exception and the Committee on Open Government.

d. A denial of an exception from disclosure may be appealed by the person submitting the records, and a denial of access to the records may be appealed by the person requesting the records. The following officer shall hear such appeals:

FOIL Appeals Officer  
Town Supervisor  
Town of Moira, 522 County Route 6, P.O. Box 150  
Moira, New York 12957  
Telephone: (518) 529-6080

The appeal shall be in writing and shall be made within seven business days of receipt of a denial. The appeal shall be determined within 10 business days of receipt of the appeal. Written notice of the determination and a statement of reasons for the determination shall be served upon the person, if any, requesting the records, the person who requested the exception and the committee on open government.

e. Records or parts of records identified as trade secrets shall be maintained in a safe and secure manner and shall be charged to the custody of the head of the department or office in which the records are filed. That individual shall specify which persons subject to his or her supervision may inspect such records. The Town records access officer, the System Administration records access officer or designee, and the vice chancellor for governmental and Town relations, or designee, shall have the right to inspect such records.

## **7. Denial of access to records**

a. This section shall not apply to records or parts of records alleged to contain trade secrets.

b. Denial of access to records shall be in writing, stating the reason therefore and advising the requester of the right to appeal to the FOIL Appeals Officer.

c. If requested records are not provided promptly, as required in section four of this policy, such failure shall also be deemed a denial of access.

d. The following officer shall hear appeals for denial of access to records under the Freedom of Information Law:

FOIL Appeals Officer  
Town Supervisor  
Town of Moira, 522 County Route 6, P.O. Box 150  
Moira, New York 12957  
Telephone: (518) 529-6080

The time for deciding an appeal by the FOIL appeals officer shall commence upon receipt of a written appeal identifying:

- i. the date of the appeal;
- ii. the date and location of the requests for records;
- iii. the records to which the requester was denied access;
- iv. whether the denial of access was in writing or due to failure to provide records as promptly as required by section four of this policy; and
- v. the name and return address of the requester.

e. The FOIL appeals officer shall inform the requester of his or her decision in writing within 10 business days of receipt of an appeal.

f. The FOIL appeals officer 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  
41 State Street  
Albany, NY 12231-0001

g. The person or body designated to hear appeals shall inform the appellant and the committee on open government of its determination in writing within seven 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 in subdivision (f) of this section.

## **8. Fees**

- a. There shall be no fee charged for:
  - i. inspection of records;

- ii. search for records; or
- iii. any certification pursuant to this policy.

b. Copies of records shall be provided upon payment of 25 cents per photocopy not in excess of 9" x 14", or the actual cost of reproducing any other record, except when a different fee is otherwise prescribed by law.

#### **9. Public notice**

A notice containing the title or name and business address of the records access officer and FOIL appeals officer and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept.

#### **10. Severability**

If any provision of this policy or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this policy or the application thereof to other persons and circumstances.

#### **11. Prior Policy or Procedures**

This policy replaces and supersedes any prior policy or procedures on this subject matter and becomes effective immediately upon adoption by the Town Board.