

CHAPTER 57

PUBLIC RECORDS, ACCESS TO

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[HISTORY: Adopted by the Common Council of the City of Dunkirk on 3-5-1992. Amendments noted where applicable.]

§ 57-1. Definitions.

AGENCY - The City Council and its committees and all offices, departments, commissions, agencies and boards of City government presently existing, or which may hereafter be created.

BUSINESS DAY - Any day, except Saturday, Sunday, a public holiday or a day on which the offices of the City of Dunkirk are otherwise closed for general business.

RECORD - That information kept, held, filed, produced or reproduced, by, with, or for an agency in any physical form, as listed in Public Officers Law Section 86.

§ 57-2. Designation of Records Access Officer and Appeals Officer.

- A. The City Clerk is hereby designated as the Records Access Officer for all agencies.
- B. The Mayor is hereby designated as the Appeals Officer for the purpose set forth in these regulations.

§ 57-3. Procedure for Obtaining Records.

- A. The City Clerk shall designate the locations where records shall be available for public inspection and copying.
- B. The City Clerk shall designate the times when records shall be available for public inspection and copying.

- C. Any person wishing to inspect and/or obtain a copy of a record in the possession, and under the control, of an agency may make an application to the Records Access Officer.
- D. Such application shall be in writing on a form to be prescribed by the City Clerk.
- E. Blank forms may be obtained from the City Clerk, City Hall, 342 Central Avenue, Dunkirk, New York 14048, or by mail addressed to such office.
- F. Completed forms may be submitted to the Records Access Officer either personally, on any business day between the hours of 9:30 A.M. to noon, and 1:00 P.M. to 4:30 P.M., or by mail, addressed to such office.
- G. Upon receipt of such an application, in the proper form and at the appropriate time, the Records Access Officer shall search for the record requested, or cause a search to be made for the record requested.
- H. The Records Access Officer shall respond to any request reasonably describing the records sought within five (5) business days of receipt of the request.
- I. A request shall reasonably describe the record or records sought.
- J. Whenever possible, a person requesting a record shall supply information regarding date, file designation or other information that may help to describe the record sought.
- K. If the Records Access Officer does not grant, or denies, access to the record sought, within five (5) business days of receipt of a request, the Records Access Officer shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied.
- L. If access to records is neither granted nor denied within ten (10) business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 57-4. Exempted Records.

The Records Access Officer shall make available for public inspection and copying all records, except that access may be denied to records, or a portion thereof, in accordance with Public Officer Law Section 87.

§ 57-5. Fees.

- A. The fee for photocopies of records of all agencies, unless otherwise provided by law, shall be twenty-five cents (\$0.25) per photocopy, not in the excess of nine inches by fourteen inches.
- B. The Records Access Officer shall provide each recipient of the photocopy with a receipt specifying the number and nature of the records copied, and the fees charged by the Records Access Officer for such copies.
- C. There shall be no fee charged for the following:
 - (1) inspection of records;
 - (2) search for records; and
 - (3) any certification pursuant to this Chapter.
- D. The fee for copies of records not covered by § 57-5A, supra, shall not exceed the actual reproduction cost for copying a record, excluding fixed costs of the agency, such as operator salaries.
- E. If the applicant desires that the records be mailed, then the applicant shall pay, in addition to the fees set forth in § 57-5A and § 57-5D, supra, the cost of mailing.
- F. The fees set forth in § 57-5A and § 57-5D, supra, plus mailing charges, if such mailing charges are applicable, must be paid prior to transmittal of records to the applicant.
- G. The Records Access Officer shall keep a copy of each receipt.
- H. On or before the 10th day of each month, the Records Access Officer shall pay to the City Treasurer all monies received by the Records Access Officer during the previous month for photocopying records.

§ 57-6. Invasion of Privacy.

- A. The Records Access Officer may delete from any records identifying details, the disclosure of which would result in an

unwarranted invasion of personal privacy, as defined in Public Officer Law Section 89.

§ 57-7. Grant or Denial of Access to Records.

- A. If the Records Access Officer determines that an application to inspect and/or copy records pertains to information required to be disclosed under Public Officers Law Section 87(2) or (3), and not exempt from disclosure as an unwarranted invasion of personal privacy, or otherwise, the Records Access Officer shall grant the application.
- B. If the Records Access Officer determines that an application to inspect and/or copy records pertains to other information not exempt from disclosure as an unwarranted invasion of personal privacy, or otherwise, the Records Access Officer shall grant the application, unless the Records Access Officer determines that to do so would adversely affect the public interest.
- C. If the Records Access Officer determines that an application to inspect and/or copy records pertains to information specifically exempted from disclosure by Public Officers Law Sections 87(2), 89(2), 89(7) or Section 57-6, supra, the Records Access Officer shall deny such application, and shall advise the applicant in writing of such denial, and the reasons for the denial.
- D. If denying any application to inspect and/or copy records, the Records Access Officer shall advise the applicant of the applicant's right to appeal such denial to the Appeals Officer.
- E. If the Records Access Officer fails to respond to a request within five (5) business days of receipt of a request as required, such failure shall be deemed a denial of access by the Records Access Officer.
- F. Any person denied access to records may appeal within thirty (30) days of denial.
- G. The time of deciding an appeal by the Appeals Officer shall commence upon receipt of a written appeal identifying:
 - (1) the date and location of a request for records;
 - (2) the records that were denied; and
 - (3) the name and return address of the appellant.

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- H. The Records Access Officer shall transmit to the New York State Committee on Open Government copies of all appeals, upon receipt of such appeals.
 - I. The Appeals Officer shall inform the appellant, and the Committee on Open Government, of the Appeals Officer's determination, in writing, within seven (7) business days of receipt of the appeal. The determination shall be transmitted to the Committee on Open Government in the manner set forth in Section 57-7H, supra.
 - J. A final denial of access to a requested record, as provided for in Section 57-7I, supra, shall be subject to CPLR Article 78 review.