

TOWN OF LANSING
LOCAL LAW NUMBER 4 OF 2004
PUBLIC ACCESS TO RECORDS OF
THE TOWN OF LANSING

The Town Board of the Town of Lansing, New York, pursuant to a Resolution dated June 16, 2004, does hereby pass a local law as follows:

Section 1. Authority

This Local Law is adopted pursuant to the authority granted in the Municipal Home Rule Law, Section 130 of Town Law, and in accord with the requirements of the Public Officers Law, and regulations promulgated thereunder.

Section 2. Title

This Local Law shall be known as “Local Law Number 4 of 2004”, or as more commonly used, the “Town of Lansing FOIL Law”.

Section 3. Purpose and Scope

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. These regulations provide information concerning the procedures by which records may be obtained. Town personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law. Any conflicts among laws governing public access to records shall be reasonably construed in favor of disclosure.

Section 4. Designation and Duties of Records Access Officer

The Town of Lansing is responsible for insuring compliance with the regulations herein. The Town designates the Town Clerk as the Town’s records access officer (herein “RAO”). The RAO is responsible for insuring appropriate agency response to public requests for access to records. The RAO shall insure that Town personnel: (a) maintain an up-to-date subject matter list; and (b) assist the requester in identifying requested records, if necessary; and (c) upon locating the records, take one of the following actions: (i) make records available for inspection; or (ii) deny access to the records in whole or in part and explain in writing the reasons therefor.

Section 5. Copies

Upon receipt of a request for copies of records the RAO shall make copies available upon payment of established fees set in accordance with Section 12, below. Records may not be removed from the building. Upon request, the RAO shall certify that a record is a true copy.

Section 6. Lost, Missing, or Destroyed Records

Upon any failure to locate or produce any requested records, the RAO shall either certify that the Town of Lansing is not the custodian for such records, or that the records of which the Town of Lansing is a custodian cannot be found after diligent search.

Section 7. Location for Production of Records

Records shall be available for public inspection and copying at the Office of the Town Clerk, 29 Auburn Road (State Route 34), Lansing, New York, during regular office hours.

Section 8. Requests for Public Records

Written requests for records are required. The records must be identified or described with sufficient particularity so as to allow the RAO to locate and identify the records sought. "Sufficient particularity" generally includes information regarding applicable dates, file designations, and the Town office, officer, or body that made such record, and/or similar identifying information. A response shall be given regarding any request reasonably describing the record or records sought within 5 business days of receipt of the request. If the RAO does not provide or deny access to the record sought within 5 business days of receipt of a request, the RAO 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.

Section 9. Subject Matter Lists

The RAO shall maintain a reasonably detailed current list by subject matter of all records, whether or not records are available for public review pursuant Section 87 of the Public Officers Law, and related laws, rules and regulations. The subject matter list shall be sufficiently detailed so as to assist in the identification of the category of the record sought. The subject matter list shall be updated not less than annually. The most recent update shall appear on the first page of the subject matter list.

Section 10. Denial of Access to Records

Each denial of access to records shall be in writing and shall state the reason for such denial. The denial letter must advise the requester of the right to appeal to the person or body established to determine appeals. Some of the principal reasons for denial are set forth in Public Officers Law Section 87(2).

Section 11. Appeals

The Town Supervisor is hereby designated as the person who shall determine appeals regarding denial of access to records under the Freedom of Information Law. The time for deciding an appeal shall commence upon receipt of a written appeal identifying: (a) the date of the appeal; and (b) the date of the request for records; and (c) the records to which the requester was denied access; and (d) so far as known, the reasons for the denial of access to the requested records; and (e) whether the denial of access was in writing or due to failure to provide records promptly; and (f) the name and return address of the requester. The Town Supervisor shall inform the appellant-requester of a decision in writing within 10 business days of receipt of an appeal. The Town Supervisor shall transmit to the New York State Committee on Open Government copies of all appeals upon receipt of appeals. The Town Supervisor shall inform the appellant and the

New York State Committee on Open Government of its determination in writing within 10 business days of receipt of an appeal.

Section 12. Fees

There shall be no fee charged for the inspection of records, the search for records, or any certification pursuant to this Local Law. Fees will be charged for copies as follows: (a) copies not exceeding 9 by 14 inches -- \$.25 per page; (b) copies larger than 9 by 14 inches -- \$1.00 per page.

Section 13. Public Notice

A notice containing (a) the title or name and business address of each RAO and each appeals person or body, and (b) the location where records can be seen, shall be posted in the Town Clerk's Office, similar to the following:

PUBLIC NOTICE

YOU HAVE A RIGHT TO SEE PUBLIC RECORDS

The amended Freedom of Information Law, which took effect on January 1, 1978, gives you the right of access to many public records. The Town of Lansing has adopted regulations governing when, where and how you can see public records. According to these regulations, records can be seen and/or copied at the Office of the Town Clerk, 29 Auburn Road, Lansing, New York 14882. The following officials will help you to exercise your right to access: Office of the Town Clerk, 29 Auburn Road, Lansing, New York 14882

If you are denied access to a record, you may appeal to the following person(s) or body: the Office of the Town Supervisor, 29 Auburn Road, Lansing, New York 14882."

Section 14. Severability

If any provision of these regulations 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 these regulations or the application thereof to other persons and circumstances.

AMENDED AS FOLLOWS:

(Amendment Number 1)

Resolution Amending Local Law Number 4 of 2004 (FOIL)

At a Regular Meeting of the Town Board of the Town of Lansing held in and for the Town of Lansing at the Lansing Town Hall on 17th day of August, 2005, the following members being

present: Stephen Farkas, Supervisor; Francis Shattuck, Councilperson; Douglas McEver, Councilperson; Connie Wilcox, Councilperson; Martin Christopher, Councilperson; and the following members being absent: none; and the following motion for a Resolution was duly made by motion of Mrs. Wilcox, and was duly seconded by Mr. Shattuck; and the vote was as follows: Stephen Farkas – aye, Francis Shattuck – aye, Douglas McEver - aye; Connie Wilcox – aye; Martin Christopher – aye; and the following Resolution therefore passed 5-0, and was duly adopted:

WHEREAS, in May 2005 the Public Officers Law of the State of New York was amended, thus amending certain requirements relative to FOIL; and

WHEREAS, to continue compliance with such requirements, the Town needs to amend Local Law #4 of 2004, the Town’s FOIL Local Law; and

WHEREAS, the following amendments to Local Law #4 of 2004 were considered for adoption: (1) that the RAO be required to grant or deny any FOIL request within 5 days, or if an answer is not reasonably possible within 5 days, then an acknowledgement of the FOIL request be made within 5 days together with a specification as to the date when the FOIL request will be granted or denied, which date may not be more than 20 days from the date of such acknowledgement (unless compliance within 25 days is unreasonable given the nature of the request); (2) to specify that all responses granting any FOIL request state the date upon which such records will be available for review; and (3) that all FOIL requests be responded to as promptly as is reasonable; and

WHEREAS, after due notice thereof, a Public Hearing was held at the Lansing Town Hall, 29 Auburn Road, Lansing, New York, being in the Town of Lansing, on the 17th day of August, 2005, at 6:07 o'clock P.M., to consider the aforesaid amendments to Local Law #4 of 2004, to hear all persons interested in the subject thereof, and to take such action thereon as is required or permitted by law; and

WHEREAS, upon consideration of the evidence and matters discussed and/or considered at such public hearing; and

WHEREAS, upon due deliberation and consideration of the foregoing and related issues, facts, matters, and concerns, the Town Board of the Town of Lansing has hereby

RESOLVED, that Local Law Number 4 of 2004 (FOIL) be and hereby is amended by amending and replacing Section 8 thereof, and substituting the following therefor as Section 8 of such Local Law:

“Section 8. Requests for Public Records

Written requests for records are required. The records must be identified or described with sufficient particularity so as to allow the RAO to locate and identify the records sought. “Sufficient particularity” generally includes information regarding applicable dates, file designations, and the Town office, officer, or body that made such record, and/or similar identifying information. A response shall be

given regarding any request reasonably describing the record or records sought within 5 business days of receipt of the request. If the RAO does not provide or deny access to the record sought within 5 business days of receipt of a request, the RAO shall, within said 5 days, furnish a written acknowledgment of receipt of the request and a statement of date when the request will be granted or denied, which date of granting or denying the request shall not be more than 25 days from the date of the FOIL request. The records requested shall be made available upon such date so stated, unless, despite due diligence, it is not reasonably possible to produce the requested records within such 25 days, and in such event, the records shall be made available as soon as is reasonably possible. All FOIL requests shall be responded to as promptly as is reasonable, and all notices or other communications granting any FOIL request shall specify the date and time when the records will be made available.”

and as so amended, this amended Section 8 be and is hereby adopted and incorporated into Local Law Number 4 of 2004 as Section 8 thereof.

(Amendment Number 2)

**Resolution Appointing Dick Platt, Code Enforcement Officer, and Bonny Boles, Town Clerk
as Records Access Officer Under FOIL (Local Law Number 4 of 2004)**

At a Regular Meeting of the Town Board of the Town of Lansing held in and for the Town of Lansing at the Lansing Town Hall on 17th day of August, 2005, the following members being present: Stephen Farkas, Supervisor; Francis Shattuck, Councilperson; Douglas McEver, Councilperson; Connie Wilcox, Councilperson; Martin Christopher, Councilperson; and the following members being absent: none; and the following motion for a Resolution was duly made by motion of Francis Shattuck, and was duly seconded by Martin Christopher; and the vote was as follows: Stephen Farkas – aye, Francis Shattuck – aye, Douglas McEver - aye; Connie Wilcox – aye; Martin Christopher – aye; and the following Resolution therefore passed 5-0, and was duly adopted:

WHEREAS, Local Law Number 4 of 2004 (FOIL), at Section 4, provides for the appointment of one or more Records Access Officers (“RAO”); and

WHEREAS, the Code Enforcement Office receives numerous FOIL requests annually, and given the expertise and knowledge of those requests, it makes sense to appoint a representative of the Codes Office as a RAO; and

WHEREAS, after due notice thereof, a Public Hearing was held at the Lansing Town Hall, 29 Auburn Road, Lansing, New York, being in the Town of Lansing, on the 17th day of August, 2005, at 6:07 o'clock P.M., to consider amendments to Local Law #4 of 2004, to hear all persons interested in the subject thereof, and to take such action thereon as is required or permitted by law; and

WHEREAS, upon consideration of the evidence and matters discussed and/or considered at such public hearing; and

WHEREAS, upon due deliberation and consideration of the foregoing and related issues, facts, matters, and concerns, the Town Board of the Town of Lansing has hereby

RESOLVED, that Dick Platt be and hereby is appointed as a RAO under Local Law Number 4 of 2004 (FOIL); and it is further

RESOLVED, that Local Law Number 4 of 2004 (FOIL) be and hereby is amended by amending and replacing Section 4 thereof, and substituting the following therefor as Section 4 of such Local Law:

“Section 4. Designation and Duties of Records Access Officers

The Town of Lansing is responsible for insuring compliance with the regulations herein. The Town designates the Town Clerk and the Code Enforcement Officer as the Town’s records access officers (each herein a “RAO”). The RAO is responsible for insuring appropriate agency response to public requests for access to records. The RAO shall insure that Town personnel: (a) maintain an up-to-date subject matter list; and (b) assist the requester in identifying requested records, if necessary; and (c) upon locating the records, take one of the following actions: (i) make records available for inspection; or (ii) deny access to the records in whole or in part and explain in writing the reasons therefor.”

and as so amended, this amended Section 4 be and is hereby adopted and incorporated into Local Law Number 4 of 2004 as Section 4 thereof.