

OSWEGO TOWN FIRE DISTRICT FREEDOM OF INFORMATION LAW POLICY

The District shall abide by the New York State Freedom of Information Law. The District hereby implements policies required by law.

Access to viewing records

Records that are not protected shall be made viewable to the public at a reasonable time. A reasonable time for this District is not normal business hours for just any business. Reasonable times for the District shall include any period of time when the executive officers of the District are on duty and at the offices of the District. In lieu of any regularly scheduled times, the Secretary shall make diligent attempts to be present during the hours of 2:30pm – 4:30pm during the weekday for the purpose of meeting with any person submitting a sufficient response.

Records may only be obtained from the Fire District Secretary.

The fees for copies of records shall be twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record.

These policies shall be published on the District website (if any) or may be published in a newspaper once per year, on a public board in the fire house or in the town, or any other manner the Board may decide.

The District shall maintain an index “reasonably detailed by subject matter” of any records which must be produced. Resolutions within the minutes shall be categorized in a manner which permits locating resolutions by topic.

PUBLIC DOCUMENTS DEFINED

Documents which must be made public include:

1. minutes of meetings and hearings;
2. internal and external audits and financial records and statements;
3. itemized records of the names, addresses, titles and salaries of paid officers and employees.

DOCUMENTS WHICH ARE NOT PUBLIC

Not all documents must be made public by the District. The District may deny access to records or portions thereof that:

1. are specifically exempted from disclosure by state or federal statute;
2. if disclosed, would constitute an unwarranted invasion of personal privacy, as described below or would impair present or imminent contract awards or collective bargaining negotiations;
3. are trade secrets or are submitted to the District 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;
4. are compiled for law enforcement purposes and which, if disclosed, would:
 - A. interfere with law enforcement investigations or judicial proceedings;
 - B. deprive a person of a right to a fair trial or impartial adjudication;
 - C. identify a confidential source or disclose confidential information relating to a criminal investigation;
 - D. reveal criminal investigative techniques or procedures, except routine techniques and procedures; or
 - E. if disclosed could endanger the life or safety of any person.
5. are inter-District or intra-District materials. However, inter-District or intra-District materials are not exempt from disclosure if they are:
 - A. statistical or factual tabulations or data;
 - B. instructions to staff that affect the public;
 - B. final District policies or determinations; or
 - C. external audits, including but not limited to audits performed by the comptroller and the federal government.

6. are examination questions or answers which are requested prior to the final administration of such questions;
7. if disclosed, would jeopardize the District's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures; or
8. are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law.

RIGHT TO PROTECT PERSONAL PRIVACY

Documents do not have to be disclosed if they would result in an invasion of the personal privacy of the members or employees of the Fire District. The rules on an invasion of personal privacy are as follows:

An unwarranted invasion of personal privacy includes, but is not 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 the Fire District in maintaining it; or
5. disclosure of information of a personal nature reported in confidence to the Fire District and not relevant to the ordinary work of the District; 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.

Disclosure does not constitute an unwarranted invasion of personal privacy:

- 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.

NO REQUIREMENT TO CREATE DOCUMENTS

Nothing requires the District to prepare any record not possessed or maintained by the District, except that if the file is on a computer program, reasonable efforts shall be made to extract the data including minor programming. If the document does not exist, the District will notify the person making the request that the District does not maintain the document.

PROCEDURES UPON RECEIVING FOIL REQUEST

The Fire District, within five business days of the receipt of a written request for a record reasonably described shall: (a) make such record available to the person requesting it; or (b) deny such request in writing; or (c) furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which must be reasonable under the circumstances of the request, when such request will be granted or denied.

The term “reasonably described” means that the request is clear and concise and can be easily understood. Requests that are not clear can be denied.

A sample response letter is as follows:

Dear _____:

We have received your request for documents of the Fire District. We are reviewing the request and will advise you within twenty (20) days whether or not we will grant your request. If we grant your request, you must produce the fee for the documents, which will be twenty-five (.25) cents per page. We will advise you as to the number of pages. If we deny the request, we will provide the reason for the denial.

If the District 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 (20) business days from the date of the acknowledgement of the receipt of the request, the District will state, in writing, 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. The failure to conform to these requirements constitutes a denial on the part of the District.

The District must provide a copy of the documents upon payment of the fee for copying. The person making the request may also demand that the District certify the accuracy of the documents. Alternatively, the District may certify that it does not have possession of the documents or that it cannot find the documents after making a diligent search for them.

An acceptable certification is as follows, and should be signed by the person that maintains the document in the ordinary course of business.

_____, the secretary of the Fire District, hereby certifies and avers that I have produced a true and accurate copy of the document as requested. I maintain the original in the ordinary course of business of the Fire District.

ELECTRONIC RECORDS

There will be no charge to scan and transmit documents which can be put into electronic format, unless the District incurs a charge for such scanning and processing.

APPEALS OF DENIALS TO RECORDS

A person denied access to a record has thirty days to appeal the denial in writing. The denial must be presented to the Chair of the Board of Commissioners. The Chair shall have ten business days after the receipt of the appeal to fully explain in writing the reasons for the denial to the person requesting the record. Alternatively, the Chair may grant the access. The Chair must also notify the committee on open government of the appeal and send a copy of the appeal and the determination to the committee.

RECORDING MEETINGS

The law does not require that meetings or hearings be recorded on tape or video. However, if the District records a meeting or hearing or any part of it, and the recording/video is requested while it still exists, it must be produced unless one of the above exceptions applies. Recordings may be destroyed only if no request has been made and the recordings are destroyed in the normal course of business. Recordings shall only be retained until the minutes are approved at the next meeting. Recordings shall not be destroyed any sooner than the approval of the prior months meeting. The recording of the prior months meeting shall be present at the next meeting where approval will be voted upon.