



CITY OF CORTLAND RECORDS ACCESS POLICY

ADOPTED BY THE CITY OF CORTLAND ON FEBRUARY 15, 2022

PURSUANT TO RESOLUTION NO. 31 OF 2022

The city of Cortland shall abide by the New York State Freedom of Information Law pursuant to Article 6 of the Public Officers Law. The city hereby implements policies required by law and regulation. This policy shall be known as the Records Access Policy.

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PURPOSE

It is the intent of this policy to enhance access to public and non-protected documents and records held by the city of Cortland ("city"). This policy is drafted in accordance with the Freedom of Information Law of the State of New York (Public Officers Law Article 6 Section 87).

APPLICABILITY

Subdivision 1(a) of Section 87 of the Public Officers Law requires the governing body of each public corporation to promulgate uniform rules and regulations for all agencies in such public corporation pursuant to rules and regulations promulgated by the committee on open government at 21 NYCRR Part 1401, and in conformity with the provisions of Article 6 of the Public Officers Law.

This policy shall apply to all agencies, departments, boards, and commissions of the city of Cortland.

DEFINITIONS

"Agency" shall mean any department, office, board, or commission established by the city of Cortland.

"Record" means any information kept, held, filed, produced, or reproduced by, with or for an agency of the city of Cortland, in any physical form including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

AVAILABILITY OF RECORDS

Designation of records access officer

The city clerk shall be deemed the records access officer. In their absence, the corporation counsel shall be deemed the records access officer for the duration of the clerk's absence. The duties of the records access officer shall be as recommended by the state of New York in rules published by the committee on open government at 21 NYCRR Part 1401.2.

The records access officer shall have the duty of coordinating departmental and other agency response to public requests for access to records. The records access officer may be contacted via mail at 25 Court Street, Cortland NY 13045, email at cityclerk@cortland.org, and facsimile at (607) 756-4644.

The designation of a records access officer shall not be construed to prohibit city officials who have been authorized to make records or information available to the public from continuing to do so.

The records access officer is responsible for assuring that agency personnel:

1. maintain an up-to-date subject matter list.
2. assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.
3. contact persons seeking records when a request is voluminous or when locating the records sought involves substantial effort, so that agency personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of the records requested.

4. upon request and location of records, take one of the following actions:
 - a. make records promptly available for inspection; or
 - b. deny access to the records in whole or in part and explain in writing the reasons therefor.
5. upon request, certify that a record is a true copy.
6. upon failure to locate records, certify that:
 - a. the agency is not the custodian for such records; or
 - b. the records of which the agency is a custodian cannot be found after diligent search.

Subject matter list

Each agency shall maintain a reasonably detailed current list, by subject matter, of all records in its possession. The subject matter list need not consist of an index or list of every record maintained by an agency; rather, it must consist of a categorization of the kinds of records maintained by an agency. Such list shall include records which are not publicly available pursuant to subdivision 2 of section 87 of the Public Officers Law, and which are outlined below, and shall also note such records which are not publicly available.

Each agency shall update its subject matter list annually during the month of January. Each agency shall provide the records access officer with subject matter lists as updated and make such list available upon public request. The date of the most recent update shall be conspicuously indicated on the list.

Agency contacts

Each agency shall designate a primary contact person for records requests. Each agency shall provide the records access officer the contact's name, address, email and phone number annually during the month of January. Each agency shall provide the records access officer with records request primary contact as updated and make such information available upon public request. The date of the most recent update shall be conspicuously indicated.

Location of records

Records viewable for public inspection shall be made available at 25 Court Street, Cortland, NY 13045, or other appropriate locations identified by the records access officer, during the hours listed below. An agency may also notify a requester in writing of a location at which records may be viewed. This is not to require that all records be maintained or stored at that location, but only that they be made viewable at that location. This also does not require that all requests for inspection be complied with upon submission, but instead as later dictated by this policy.

Access to viewing records/hours for inspection

Records that are not protected shall be made viewable to the public at a reasonable time. Reasonable times for the request of documents shall be Mondays to Fridays, from 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m., during non-holidays. Records may be made viewable to the public during other times at the discretion of the agency.

Fees for copying

1. An agency shall not charge a fee for the following:
 - a. inspection of records for which no redaction is permitted;
 - b. search for, administrative costs of, or employee time to prepare photocopies of records;
 - c. review of the content of requested records to determine the extent to which records must be disclosed or may be withheld;
 - d. any certification required pursuant to 21 NYCRR Part 1401; or
 - e. records which are able to be transmitted electronically or are available via the internet.
2. An agency may charge a fee for photocopies of records, provided that:
 - a. the fee shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches;
 - b. the fee for photocopies of records in excess of 9 by 14 inches shall not exceed the actual cost of reproduction.
3. The fee an agency may charge for a copy of any other record is based on the actual cost of reproduction and may include only the following:
 - a. an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and
 - b. the actual cost of the storage device(s) or media provided to the person making the request as needed to comply with such request; or
 - c. the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, and when such service is used to prepare the copy.
4. When an agency can retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the agency shall retrieve or extract such record or data electronically. In such case, the agency shall not charge a fee, provided that the agency may charge a fee in accordance with paragraph 3.a., 3.b., and 3.c. above.
5. An agency shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.
6. An agency may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.
7. An agency may waive a fee in whole or in part when making copies of records available.

These policies shall be published on the city website.

Medium and availability

An agency shall provide records on the medium requested by a person, if the agency can reasonably make such copy or have such copy made by engaging an outside professional service. Records provided in a computer format shall not be encrypted.

No agency shall enter into or renew a contract for the creation or maintenance of records if such contract impairs the right of the public to inspect or copy the agency's records.

PUBLIC DOCUMENTS DEFINED AND OBLIGATIONS TO DISCLOSE

Documents to be maintained and disclosed

Documents which must be maintained and made public include:

Each agency shall maintain:

1. a record of the final vote of each member in every agency proceeding in which the member votes;
2. a record setting forth the name, public office address, title and salary of every officer or employee of the agency; and
3. a reasonably detailed current list by subject matter, of all records in the possession of the agency, whether or not publicly available.

Law enforcement records

A law enforcement agency responding to a request for law enforcement disciplinary records, as defined in Section 86 of the Public Officers Law, shall redact any portion of such record containing the information specified in subdivision 2-b of Section 89 of the Public Officers Law prior to disclosing such record, and shall only include incidents where discipline was enacted and occurred after June 12, 2020.

Exempted from disclosure

Each agency shall make available for public inspection and copying all records, except that such agency 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 under the provisions of subdivision two of section 89 of Article 6.
3. if disclosed would impair present or imminent contract awards or collective bargaining negotiations.
4. are trade secrets or are submitted to an agency 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.
5. 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; or
 - d. reveal criminal investigative techniques or procedures, except routine techniques and procedures.
6. if disclosed could endanger the life or safety of any person.

7. are inter-agency or intra-agency materials which are not:
 - a. statistical or factual tabulations or data;
 - b. instructions to staff that affect the public;
 - c. final agency policy or determinations; or
 - d. external audits, including but not limited to audits performed by the comptroller and the federal government.
8. are examination questions or answers which are requested prior to the final administration of such questions.
9. if disclosed, would jeopardize the capacity of an agency or an entity that has shared information with an agency to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures.
10. are photographs, microphotographs, videotape, or other recorded images prepared under authority of the Vehicle and Traffic Law Sections 1111-a and 1111-b (to be repealed December 1, 2024); or Section 1111-c (to be repealed September 20, 2025); or Section 1111-d (to be repealed December 1, 2024); or Section 1180-b (to be repealed July 1, 2022); or Section 1180-d (to be repealed September 6, 2024); or Section 1174-a (to be repealed December 1, 2024).
11. are data or images produced by an electronic toll collection system under authority of Article 44-C of the Vehicle and Traffic Law and in Title III of Article 3 of the Public Authorities 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 an agency member or employee. 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. sale or release of lists of names and addresses if such lists would be used for commercial or fund-raising purposes;
3. 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 city in maintaining it;
4. disclosure of information of a personal nature reported in confidence to the city and not relevant to the ordinary work of the city; or
5. information of a personal nature contained in a workers' compensation record, except as provided by Section 110-a of the Workers' Compensation Law.

Disclosure does not constitute an unwarranted invasion of personal privacy:

1. when identifying details are deleted;
2. when the person to whom a record pertains consents in writing to disclosure;
3. when upon presenting reasonable proof of identity, a person seeks access to records pertaining to him.

PROCEDURES UPON RECEIVING A RECORDS ACCESS REQUEST

Coordination of records request

When an agency receives a records request directly, the agency shall respond directly to the requester except when the records being requested are from more than one city agency. If the request involves records from more than one agency, the agency receiving the request shall forward the request to the records access officer who will coordinate the city's response.

When the records access officer receives a records request, they may direct the appropriate agency to respond directly to the requester.

When the records access officer receives a records request involving more than one agency, they may request each agency provide the appropriate response to the records access officer who will coordinate the city's response.

Response within five business days; fulfillment of request within twenty days

The city and its agencies, within five business days of the receipt of a written request for a record reasonably described, shall respond in writing by:

1. granting access to record in whole or in part;
2. denying access to records in whole or in part;
3. certifying that the agency does not have possession of such record or that the record cannot be found after a diligent search;
4. informing a person requesting records that the request, or portion of the request, does not reasonably describe the records sought, and shall include direction, to the extent possible, that would enable that person to request records reasonably described;
5. acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, provided that:

Fulfillment of request beyond twenty days

If it is known that circumstances prevent disclosure within twenty business days from the date of acknowledgment, the agency shall notify the requester in writing, stating the reason for the inability to grant the request within those twenty business days, and shall state a date certain, within a reasonable period under the circumstances of the request, when the request will be granted.

If an agency is unable to disclose records within twenty business days from the date of acknowledgment, the agency shall also notify the records access officer in writing stating the reason for the inability to grant the request within those twenty business days, and shall state a date certain, within a reasonable period under the circumstances of the request, when the request will be granted.

Electronic and internet records

When an agency maintains a record in electronic format, the agency may respond by transmitting the record to the requester via electronic means. When an agency maintains a record on the internet, the

agency may respond by providing the appropriate internet address. In both such instances, the response shall also inform the requester that the records are also available in printed form or other information storage medium and shall be provided in such manner upon request.

No requirement to create documents

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

Documentation of records access requests and disposition

Agencies shall maintain documentation of all records access requests received. Such documentation shall include the date received, date(s) responded to, description of the records requested, and how the request was responded to. Such documentation shall be made available to the city clerk, corporation counsel and mayor upon request.

DENIAL TO RECORDS

Denial of access shall be made in writing stating the reason therefor and advising the person denied access of their right to appeal in writing to the mayor. The statement of denial shall include the mayor's address at 25 Court Street, Cortland NY 13045 and their phone number 607-753-0872.

When denying access to a record in whole or in part, the agency shall transmit a copy of the denial to the city clerk and corporation counsel.

APPEALS OF DENIALS TO RECORDS

The mayor is designated records access appeals officer. A person denied access to a record has thirty days to appeal the denial in writing to the mayor. If an agency receives an appeal, it shall direct the appeal to the mayor. The mayor 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 mayor may grant access to the record. The mayor must also notify the state committee on open government of the appeal and send a copy of the appeal and the determination to the committee.

PUBLIC NOTICE

The city shall publicize by posting in a conspicuous location and on its website:

1. the locations where records shall be made available for inspection and copying.
2. the name, title, business address and business telephone number of the designated records access officers.
3. the right to appeal by any person denied access to a record and the name and business address of the person or body to whom an appeal is to be directed.