

**Town of Amherst Industrial Development Agency
and
Town of Amherst Development Corporation**

FREEDOM OF INFORMATION LAW POLICY

Section 1. Applicability.

This FOIL Policy (“Policy”) shall apply to the Town of Amherst Industrial Development Agency (“AIDA”) and the Town of Amherst Development Corporation (“ADC”) (AIDA and ADC hereinafter sometimes collectively referred to as “Agency”) and such other affiliates as may hereafter be established by AIDA or ADC (an “Agency Affiliate”) Unless otherwise indicated, all references to the “Agency” herein shall also include the Agency Affiliates.

Section 2. Purpose and Scope.

2.1 This Policy provides information concerning the procedures by which members of the public may access records of the Agency in accordance with the New York State Freedom of Information Law (“FOIL”).

2.2 The Agency will furnish to the public the information and records required to be disclosed by the New York State FOIL (Article 6, Sections 84-90, of the Public Officers Law), and other applicable regulations. The FOIL gives members of the public the right to access government records, with certain exceptions. The full text of the FOIL law, guidance issued by the New York State Committee on Open Government, and other information about the law can be found on the Committee’s website at <https://opengovernment.ny.gov/>.

Section 3. Designation of Records Access Officer.

3.1 The Agency designates David S. Mingoia as the records access officer for the Agency (the “Records Access Officer”).

3.2 The Records Access Officer is responsible for ensuring appropriate Agency response to public requests for access to records. The designation of a Records Access Officer 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.

- a. The Records Access Officer shall ensure that Agency personnel:
 - i. Maintain an up-to-date subject matter list that reasonably details all records in the possession of the Agency, whether or not available under FOIL.
 - ii. Upon locating the records, take one of the following actions:
 - 1. Make records available for inspection; or,
 - 2. Deny access to the records in whole or in part and explain in writing the reasons therefor.
 - iii. Upon request for copies of records:

1. Make a copy available upon payment or offer to pay established fees, if any, in accordance with Section 8; or,
 2. Permit the requester to copy those records at the Agency's offices and in the presence of Agency staff.
- iv. Upon request, certify that a record is a true copy; and
- v. Upon failure to locate records, certify that;
1. Either AIDA or ADC is not the custodian for such records, or
 2. The records of which AIDA or ADC is a custodian cannot be found after a diligent search.

Section 4. Hours and Location for Public Inspection.

4.1 The Agency shall accept requests for public access to records and produce records during all hours regularly open for business, upon reasonable notice.

4.2 The Records Access Officer shall designate the locations where records shall be available for public inspection and copying.

Section 5. Requests for Public Access to Records.

5.1 Requests for Agency records shall be made in writing to the Records Access Officer through either direct or electronic mail, at the Agency's post office address or email address.

5.2 If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.

5.3 A response shall be given within five (5) business days of receipt of a request by:

- a. informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;
- b. granting or denying access to records in whole or in part;
- c. 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 (20) business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty (20) business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or
- d. if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty (20) business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty (20) business days of such acknowledgment specifying the reason for the inability to do so and a date certain,

within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.

5.4 In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the Agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

Section 6. Subject Matter List.

6.1 The Records Access Officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to Section 87(2) of the Public Officers Law.

6.2 The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

6.3 The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

Section 7. Denial of Access to Records.

7.1 Denial of access to records shall be in writing stating the reason(s) therefor and advising the requester of the right to appeal to the individual or body established to determine appeals, who shall be identified by name, title, business address and business phone number.

7.2 If requested records are not provided promptly, as required in Section 5 of this Policy, such failure shall also be deemed a denial of access.

7.3 The Chair of the Agency shall determine appeals regarding denial of access to records under the Freedom of Information Law.

7.4 Any person denied access to records may appeal such determination within thirty (30) days of a denial.

7.5 The time for deciding an appeal by the individual or body designated to determine appeals shall commence upon receipt of a written appeal identifying:

- a. the date and location of requests for records;
- b. a description, to the extent possible, of the records that were denied; and
- c. the name and return address of the person denied access.

7.6 A failure to determine an appeal within ten (10) business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

7.7 The person or body designated to determine appeals 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
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

7.8 The individual designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination in writing within ten (10) 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 subdivision (7) of this Section.

Section 8. Fees.

8.1 There shall be no fee charged for:

- a. inspection of records;
- b. search for records; or
- c. any certification of records.

8.2 Fees for copies may be charged, provided that:

- a. the fee for copying records 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 x 14 inches shall not exceed the actual cost of reproduction; or
- c. the Agency has the authority to redact portions of a paper record and does so prior to disclosure of the record by making a photocopy from which the proper redactions are made.

8.3 The fee the 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 devices or media provided to the person making the request in complying 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 if such service is used to prepare the copy.

8.4 When the Agency has the ability to 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 be required to retrieve or extract such record or data electronically. In such case, the Agency may charge a fee in accordance with paragraph (4)(1) and (2) above.

8.5 The 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.

8.6 The Agency may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.

8.7 The Agency, in the sole discretion of the Executive Director, may waive a fee in whole or in part when making copies of records available.

Section 9. Review by AIDA and ADC Board.

This Policy shall be reviewed periodically by the AIDA and ADC Boards of Directors. Amendments to this Policy shall be reviewed and approved through the AIDA and ADC Boards of Directors.

Adopted: July 17, 2026