

Chapter 204

RECORDS

[HISTORY: Adopted by the Board of the Town of Pendleton: Art. I, 3-7-1989; Art. II, at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

ARTICLE I Retention and Disposition [Adopted 3-7-1989]

§ 204-1. Adoption of schedule.

Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for municipal government records, is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

§ 204-2. Disposal of records.

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed therein.
- B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.

ARTICLE II Public Access [Adopted at time of adoption of Code¹]

§ 204-3. Purpose and scope.

- A. The people's right to know the process of government decisionmaking and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the

1. Editor's Note: See Ch. 1, General Provisions, Art. I.

Freedom of Information Law,² as well as records otherwise available by law.

- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 204-4. Records access officer.

- A. The Town Board of the Town of Pendleton is responsible for ensuring compliance with the regulations herein, and the Town Board shall appoint a records access officer to assist said Board in the administration of this Article.
- B. The records access officer shall be 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.
- C. The records access officer shall ensure that personnel:
- (1) Maintain an up-to-date subject matter list.
 - (2) Assist the requester in identifying requested records, if necessary.
 - (3) Upon locating the records, take one (1) of the following actions:
 - (a) Make records available for inspection.
 - (b) Deny access to the records in whole or in part and explain, in writing, the reasons therefor.
 - (4) Upon request for copies of records:
 - (a) Make a copy available upon payment or an offer to pay established fees, if any, in accordance with § 204-10; or
 - (b) Permit the requester to copy those records.
 - (5) Upon request, certify that a record is a true copy.
 - (6) Upon failure to locate records, certify that:
 - (a) The Town of Pendleton is not the custodian for such records; or
 - (b) The records of which the Town of Pendleton is a custodian cannot be found after diligent search.

§ 204-5. Location of records.

Records shall be available for public inspection and copying at the Town Hall.

§ 204-6. Hours for inspection.

2. Editor's Note: See Article 6 of the Public Officers Law.

Requests for public access to records shall be accepted and records produced during all hours regularly open for business.

§ 204-7. Requests for access.

- A. A written request may be required, but oral requests may be accepted when records are readily available.
- B. A response shall be given regarding any request reasonably describing the record or records sought within five (5) business days of receipt of the request
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the records sought within five (5) business days of receipt of a request, he or she 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. 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.

§ 204-8. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 204-9. Denial of access; appeals.

- A. Denial of access to records shall be in writing, stating the reason therefor, and advising the requester of the right to appeal to the individual or body established to hear appeals.
- B. If requested records are not provided promptly, as required in § 204-7D of this Article, such failure shall also be deemed a denial of access.
- C. The Town Board of the Town of Pendleton shall hear appeals for denial of access to records under the Freedom of Information Law.³
- D. The time for deciding an appeal by the body designated to hear appeals shall commence upon receipt of a written appeal identifying;

3. Editor's Note: See Article 6 of the Public Officers Law.

- (1) The date of the appeal.
 - (2) The date and location of the request for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 204-7D.
 - (5) The name and return address of the requester.
- E. The body designated to hear appeals shall inform the requester of its decision in writing within ten (10) business days of receipt of an appeal.
- F. The body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government, Department of State, 162 Washington Avenue, Albany, New York 12231.
- G. The body designated to hear 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 Public Access to Records in the same manner as set forth in Subsection F of this section.

§ 204-10. Fees.

- A. There shall be no fee charged for:
- (1) Inspection of records.
 - (2) Search for records.
 - (3) Any certification pursuant to this Article.
- B. The fee for photocopies not exceeding eight and one-half by fourteen (8 1/2 x 14) inches is twenty-five cents (\$0.25) per page.

§ 204-11. Public notice.

A notice containing the title or name and business address of the records access officer and appeals body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.