



WADING RIVER FIRE DISTRICT BOARD OF FIRE COMMISSIONERS

3.9 FOIL Procedure Policy

OBJECTIVES:

The rules and regulations which comprise this procedure are adopted pursuant to the New York State Freedom of Information Law (Public Officers Law, Article 6) and the rules promulgated by the State Committee on Open Government under 21 NYCRR PART 1401.

POLICY:

1. DEFINITIONS

When used in this procedure

- (a) District shall refer to the Wading River Fire District.
- (b) Department shall refer to the Wading River Fire Department.
- (c) FOIL shall refer to the Freedom of Information Law.
- (d) Records shall mean records held by the Wading River Fire District that are available for inspection and copying under the FOIL and any other provision of law.
- (e) Records Access Officer shall mean the Fire District Secretary or that officer's designated representative.
- (f) Chief executive officer shall mean the Chairman of the Board of Fire Commissioners of the Wading River Fire District.
- (g) Fiscal officer shall mean the Fire District Treasurer.

2. RECORDS ACCESS OFFICER

The records access officer shall perform the functions of his or her office within the Wading River Fire District at the Fire District Office located at 1503 North Country Road, Wading River, New York 11792. The duties of the Records Access Officer shall be as follows:

- (a) He/She shall cause a public notice to be posted on the bulletin board at the Fire District Office Building, and at the Fire Headquarters Building located at 1503 North Country Road, Wading River, New York 11792 informing the public of his/her office address, telephone number, the times and places where records will be made available for inspection and copying; the procedure for obtaining a FOIL RECORD REQUEST FORM; the fact that applicants for records access have a right to appeal any denial to the Board of Fire Commissioners, and the address and telephone number of the Board.

(b) He/She shall be available to members of the general public to receive and process requests for access to records during the hours stated in this procedure.

(c) He/She shall provide information concerning the nature and location of records, respond to all inquiries relating to access to records, and keep available for inspection a current list, by subject matter, of records as required by the Freedom of Information Law.

(d) He/She shall make available for access a record setting forth the name, public office address, title and salary of every officer and employee of the Fire District.

(e) He/She shall receive and process requests for access to records in the manner prescribed by this procedure.

(f) He/She shall charge and receive for the copying of records the fee prescribed by this procedure.

(g) He/She shall provide a suitable location within the Fire District Office Building which shall be used for the inspection of records.

(h) He/She shall have responsibility to the public and the chief executive for the superintendence of access to records, the effectuation of this procedure and the safekeeping of records under inspection, and shall not permit an unattended inspection of records.

(i) He/She shall have the cooperation and assistance of all personnel of the Fire District in the performance of his/her functions under this procedure.

(j) He/She shall designate one or more members of the clerical staff of the Fire District, as he/she sees necessary to serve as assistant records access officer(s).

(k) He/She shall make arrangements for e-mail access to the FOIL records requesting system and shall thereafter process electronic requests for records.

(l) He/ She shall work with the Board of Fire Commissioners to develop the capacity of the Fire District to make records available in electronic/ digital formats.

3. TIMES AND PLACES FOR INSPECTING RECORDS

Records shall be available for inspection and copying by members of the public on each and every day that the offices of the Fire District are open for the transaction of business during all regular business hours. Records shall be inspected at the location for the inspection of records designated by the records access officer.

4. COPYING OF RECORDS

(a) Records inspected by members of the public may be copied by those persons, or may be copied for those persons, in the following manner:

- i. the records may be copied by the person inspecting the records by his or her hand copying;
- ii. the records may be copied by the person inspecting the records by copying the same by his or her typewriter; or
- iii. the records may be copied for the person inspecting the records by Fire District personnel using Fire District mechanical reproduction equipment.

(b) Only Fire District personnel will be permitted to operate the District copying machine.

(c) Copies of records produced by Fire District personnel using Fire District mechanical reproduction equipment will be provided only when the fee for such copies as prescribed by this procedure has been paid to the records access officer.

5. FEES FOR COPYING RECORDS

The fee for copies of records shall be twenty-five cents per photocopy when the record is not in excess of nine inches by fourteen inches. If the record exceeds that size or is in a different format the cost shall be the actual cost of reproducing the record in accordance with the provisions of Section 87, sub-paragraph (1)(c) of the Public Officers Law, except when a different fee is otherwise prescribed by statute. In determining the actual cost of reproducing a record, the fire district may include only:

1. an amount equal to the hourly salary attributed to the lowest paid fire district employee who has the

necessary skill required to prepare a copy of the requested record;

2. the actual cost of the storage devices or media provided to the person making the request in complying with such request;
3. the actual cost to the fire district of engaging an outside professional service to prepare a copy of a record, but only when the fire district's information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy; and
4. preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of fire district employee time is needed to prepare a copy of the record requested. A person requesting a record shall be informed 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 an outside professional service would be retained to prepare a copy of the record. Any time a fee will be charged the Fire District Secretary shall determine the cost and inform the person requesting the record of the cost before incurring copying expenses (to the extent feasible). Records shall not be released until the person requesting the record pays the fee associated with providing the record.

(b) No fee shall be charged for:

- (i) the search for a record except as stated above;
- (ii) the inspection of a record;
- (iii) the copying of a record by the person inspecting the record; or
- (iv) the certification of a record by the records access officer or any certification given by that officer in connection with the inspection of records.

6. CERTIFICATION OF RECORDS

(a) The records access officer shall, upon a request therefore, give a written certification that a copy of a record is a true copy and, when a record cannot be found after diligent search, or is not a record of the Fire District, a written certification to that effect.

(b) In all instances where a person requests the records access officer to provide a copy of a part or portion of a record, the records access officer shall stamp thereon a statement to the effect that the copy does not represent a reproduction of the complete original record.

7. PROCEDURES GOVERNING THE INSPECTION OF RECORDS

The inspection and copying of records shall be made in the following manner:

(a) Members of the public shall request the records access officer to allow them the inspection and/or copying of reasonably described records.

(b) Members of the public shall prepare for the records access officer, as he/she sees necessary, a written request for the inspection of records.

(c) The records access officer shall inform the person seeking inspection of a record of the location of the record and shall cause a search for the record requested.

(d) The records access officer shall, within five (5) business days of a request for a record, produce the record for inspection, deny access to the record, or furnish a written acknowledgment of the receipt of the request which states the approximate date when the request will be granted or denied.

(e) The records access officer shall, where applicable, delete identifying details from the record to prevent an unwarranted invasion of personal privacy as is authorized by the Freedom of Information Law.

(f) The records access officer shall allow the inspection of the record during the times and at the location prescribed by this procedure for the inspection of records.

(g) The records access officer shall allow the copying of records and shall make the certifications respecting such records in the manner prescribed by this procedure.

(h) The records access officer shall deny the inspection and copying of records not available for inspection by law, and shall give a written statement of his or her denial to the person seeking access to the records, which statement shall also set forth the right of appeal to the records appeals body (the Board of Fire Commissioners).

(i) Members of the public who request that information submitted to the Fire District be excepted from disclosure under paragraph (d) of subdivision 2 of section 87 of the Freedom of Information Law, as provided for by subdivision 5 of section 89 of such law, shall, at the time of submission of such information, identify for the records access officer in writing with specific particularity those records of portions thereof which contain such information. Records so excepted from disclosure shall be kept in the custody of the records access officer and he/she shall be responsible for determining which personnel shall have such records made available to them for the limited purpose of inspection and study for Fire District business. Such records shall be kept apart from other records of similar character and content in separate folders marked as being exempt from disclosure to safeguard against an unauthorized access to such records.

8. FIRE DISTRICT EMPLOYMENT INFORMATION

Members of the public shall have access to and may copy the record kept by the records access officer which lists the names, public office addresses, titles and salaries of all officers and employees of the Fire District. Volunteer firefighters shall be deemed employees for purposes of this section only and no information beyond their name, fire department rank, and fire station assigned will be provided.

9. APPEALS OF DENIAL OF ACCESS TO RECORDS

(a) A person who has been denied access to records by the records access officer may, within thirty (30) days of the denial, appeal the denial to the records appeals body which shall be the Board of Fire Commissioners.

(b) The records appeals body shall transmit a copy of an appeal to the State Committee on Open Government upon receipt of an appeal.

(c) The records appeals body shall, within ten (10) business days of the receipt of the appeal, order the records access officer to allow the immediate inspection of the record sought where it determines that the denial of access was in error.

(d) The records appeals body shall, within ten (10) business days of the appeal, write the reasons for denial of access to the record sought where it determines that the denial was correct, and mail the written reasons to the appellant by certified mail, return receipt requested of the United States Postal Service.

(e) A copy of his determination shall be transmitted to the State Committee on Open Government by the records appeals body at the same time that this determination is mailed to the appellant.

10. FORM OF CERTIFICATION

The form for certification of the correctness of any record or that a record cannot be found shall be as follows:

The foregoing is certified as a correct record of the Wading River Fire District requested by

Date: _____

Fire District Secretary

A record of the following, requested by _____
cannot be found in the records of the Wading River Fire District as of this date.

Date: _____

Fire District Secretary

11. FORM OF REQUESTS FOR RECORDS

- (a) Persons requesting access to records by appearing at the Fire District or submitting a written request for records may be asked to complete the following request form, for our records:
- (b) Persons requesting access to records through the District electronic mail system shall be forwarded the form that must be filled out electronically and shall be provided with responses in electronic format.

APPLICATION FOR PUBLIC ACCESS TO RECORDS**TO: RECORDS ACCESS OFFICER****Wading River Fire District****1503 North Country Road, Wading River, New York 11792****FROM:** _____**(Name of Person Requesting Access to Records)****I hereby apply to inspect the following record:**

Name: _____**Representing:** _____**Mailing Address:** _____

Telephone No.: __________
Signature_____
Date

FOR AGENCY USE ONLY

() Approved

() Denied (for the reason[s] check below)

_____ **Confidential disclosure**_____ **part of Investigatory files**

_____ **Record of which this agency is legal custodian cannot be found**

_____ **Record is not maintained by this agency**

_____ **Exempted by statute other than the Freedom of Information Act**

_____ **Request has been referred to other agencies which has custody or control of original record**

_____ **Other**

(specify)_____

Signature

Title

Date

NOTICE: You have a right to appeal a denial of this application to the head of this agency:

BOARD OF FIRE COMMISSIONERS

Wading River Fire District

1503 North Country Road, Wading River, New York 11792

BOFC Chairman must decide an appeal and inform you of such decision in writing within ten (10) working days of receipt of an appeal.

I hereby appeal:

Signature

Date

(a) Requests made orally, in person or in a form other than authorized by this Part may not be entertained. The requestor may be asked to complete this application form for our own records.

(b) Requests by mail will be processed at the Fire District Office only. Such requests will be processed if the requestor and material sought are sufficiently identified to make compliance practicable. In the absence of such identification, the Fire District may send to the requestor a copy of the above form for completion in order that the request may be filled.

(c) Requests will not be processed unless the applicable fee is paid.

12. PROMPT RESPONSE TO RECORDS REQUESTS

The records access officer shall, at a minimum with regard to every FOIL request received do the following:

- (1.) Within five business days of the receipt of a written request for a record reasonably described furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied;
- (2.) The written acknowledgement should note any requests that cannot be addressed because the record does not exist or because it is not reasonably described so as to permit research on the request;
- (3.) The written acknowledgement should note any requests that must be denied because the documents are clearly not subject to release under FOIL (only very simple denial issues should be addressed at this point, an example being a request for home addresses or social security numbers of personnel).

13. ADDRESSING E-MAIL REQUESTS

FORM: REQUEST FOR RECORDS BY EMAIL

Re: FOIL Request

Dear Records Access Officer:

(1) Please e-mail the following records if possible (include as much detail about the record as possible, such as relevant dates, names, descriptions, etc.):

(2) Please advise me of the appropriate time during normal business hours for inspecting the following records prior to obtaining copies (include as much detail about the records as possible, including relevant dates, names, descriptions, etc.):

(3) Please inform me of the cost of providing paper copies of the following records (include as much detail about the records as possible, including relevant dates, names, descriptions, etc.).

(4) If all the requested records cannot be emailed to me, please inform me by email of the portions that can be emailed and advise me of the cost for reproducing the remainder of the records requested (\$0.25 per page or actual cost of reproduction).

(5) If the requested records cannot be emailed to me due to the volume of records identified in response to my request, please advise me of the actual cost of copying all records onto a CD or floppy disk.

(6) If my request is too broad or does not reasonably describe the records, please contact me via email so that I may clarify my request, and when appropriate, indicate the manner in which records are filed, retrieved or generated.

If it is necessary to modify my request, I would prefer to be contacted at the following telephone number: _____.

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing and provide the name, address and email address of the person or body to whom an appeal should be directed.

Name: _____
Address: _____
Telephone Number: _____

FORM: AGENCY RESPONSE TO EMAIL REQUEST FOR RECORDS

Dear Applicant for Records:

We received your request for records pursuant to the Freedom of Information Law on [fill in date received, or next business date received, if received after normal business hours]: _____.

[select the appropriate response below from the numbered choices]

- 1. Attached are electronic copies of the records that you requested.*
- 2. The records are not available electronically. Please remit \$ _____. Copies will be provided to you on or about _____.*
- 3. The records that you have requested to inspect will be made available for inspection on [insert date] _____ at [insert time] _____. After inspecting the records, you may request copies of selected pages, which we will provide to you on or about [insert date] _____. If paper copies are required, payment of a fee of \$.25 per photocopy will be charged.*
- 4. The records requested cannot be located with reasonable effort and your request does not reasonably describe records in the possession of this agency. [Indicate information necessary to locate records or the manner in which records are filed, retrieved or generated by the agency in order for the applicant to clarify the request.]*
- 5. This agency does not maintain or possess the records you have requested. [When possible, indicate to whom (other agency or jurisdiction) the request should be directed.]*
- 6. The records sought cannot be found after a diligent search.*
- 7. This agency has determined that it is unable to respond to your request at this time. Accordingly, on or before [insert date within the next 20 business days] _____, we will grant and/or deny access in whole or in part.*
- 8. This agency has determined that it is unable to respond to your request in full within the next twenty business days for the following reasons [provide explanation as required by the Freedom of Information Law, §89(3)]:
Accordingly, on or before [insert date] _____, we will provide and/or deny access in whole or in part. Please advise by reply email if you would prefer that records be made available on a piecemeal basis if it is feasible to do so.*
- 9. Because the records you have requested include a list of names and residence addresses, disclosure may constitute an unwarranted invasion of personal privacy pursuant to §89(2)(b)(iii) of the Freedom of Information Law. Further steps must be taken by the fire district. The records cannot be release if they are to be used for solicitation or fund-raising purposes. Under Section 89 of the Public Officers Law the fire district may require a person requesting lists of names and addresses to*

provide a written certification that such person will not use such lists of names and addresses for solicitation or fund-raising purposes and will not sell, give or otherwise make available such lists of names and addresses to any other person for the purpose of allowing that person to use such lists of names and addresses for solicitation or fund-raising purposes. If you maintain that such records are not sought for solicitation or fund-raising purposes, as a condition precedent to disclosure, please prepare the following statement on a separate sheet of paper, sign it, and mail it to the address indicated below.

I [insert name] _____ certify that the requested list of names and addresses in my request for access to records dated _____ and requesting _____ (describe record) will not be used for commercial or fund-raising purposes.

[Signature]

Send to:

Title: Wading River Fire District Secretary

*Address: Board of Fire Commissioners, 1503 North Country Road, Wading River Fire District,
Wading River, New York 11792*

10. Because the records you have requested pertain to yourself, but if released to the public would constitute an unwarranted invasion of your privacy, as a condition precedent to disclosure, please prepare the following statement on a separate sheet of paper, sign it, and mail it to the address indicated below, along with copy of your valid driver license or other acceptable form of identification.

I certify that my name is [insert name] _____

That I reside at [insert address] _____

That I have attached a copy of my valid driver license or equivalent identification and that the requested records pertain to me.

[Signature]

Send to:

Title: Wading River Fire District Secretary

*Address: Board of Fire Commissioners, 1503 North Country Road, Wading River Fire District,
Wading River, New York 11792*

11. This agency has determined that portions of your request must be denied based on the following [provide reason based on one or more exceptions appearing in §87(2) of the Freedom of Information Law]:

Accordingly, your request for records is granted in part and denied in part, and the requested records are attached. Certain portions have been redacted, and/or certain records have not been provided to you based on the explanation above.

*You have 30 days from receipt of a denial of access to records or portions thereof to appeal to:
[provide e-mail address for Board of Fire Commissioners in format below]*

Name: _____

Title: Chairman

*Address: Board of Fire Commissioners, 1503 North Country Road, Wading River Fire District,
Wading River, New York , 11792*

Email Address: _____

*12. This agency has determined that the records that you requested are not required to be made
available to the public based on the following [provide reason based on one or more exceptions
appearing in §87(2) of the Freedom of Information Law]:*

*Accordingly, your request is denied. You have 30 days from receipt of a denial of access to records
to appeal to:*

[provide e-mail address for Board of Fire Commissioners in format below]

Name: _____

Title: Chairman

*Address: Board of Fire Commissioners, 1503 North Country Road, Wading River Fire District,
Wading River, New York 11792*

Email Address: _____

Adopted by the Wading River Fire District Board of Fire Commissioners on Monday, 09/26/11.

Edward Frost, Chairman
Timothy Deveny, Commissioner
Michael Harrigan, Commissioner
Thomas Lateulere, Commissioner
James Meier, Commissioner