

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Canandaigua

Local Law No. 6 of the year 2014

A local law Amendments to Chapter 56, Records
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Canandaigua as follows:

Chapter 56, Records, is hereby amended in its entirety as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Chapter 56 – Records

[HISTORY: Adopted by the Town Board of the Town of Canandaigua as indicated in article histories. Amendments noted where applicable.]

Article I. Records Management

§ 56-1. Intent.

Records are essential to the administration of local government. They contain the information that keeps government programs functioning. It is the intent of this chapter that a records management program be established which will assist officials in making decisions, administering programs and providing administrative continuity with past operations. The program is intended to document the delivery of services, show the legal responsibilities of government and protect the legal rights of citizens. It will contain information on taxation and on the management and expenditure of funds. These records will also document the historical development of government itself, the community and the people of the Town.

§ 56-2. Program established; designation of Records Management Officer.

- A. There shall be a records management program established under the aegis of the Town Clerk and headed by the Records Management Officer. The Town Clerk is designated as the Records Management Officer (RMO) and will be responsible for administering the current and archival public records in storage areas for the Town in accordance with local, state and federal laws and guidelines.
- B. The RMO may appoint a designee to carry out the specific duties listed in §56-4.

§ 56-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated: *[Editor's Note: See also the applicable definitions in Chapter 1, Article II.]*

ARCHIVES - Those official records which have been determined by the Records Management Officer and Records Advisory Committee to have sufficient historical or other value to warrant the continued preservation by the Town.

RECORDS - Official files, minutes and documents, books, papers, photographs, sound recordings, microforms or any other materials, regardless of physical form or characteristics, made or received pursuant to law or in conjunction with the transaction of official Town business.

RECORDS CENTER - A central storage area maintained by the Records Management Officer for the storage, servicing, security and processing of records which must be preserved for varying periods of time.

RECORDS DISPOSITION - The removal by the Town of Canandaigua, in accordance with approved records control schedules, of the records no longer necessary for the conduct of business by such agency through removal methods, which may include the disposition of temporary records by destruction or donation, or the transfer of records to a central storage facility for records with scheduled retention periods or permanent storage of records determined to have historical or other sufficient value warranting continued preservation, or the transfer of records from one Town agency to another Town agency.

RECORDS MANAGEMENT - The planning, controlling, directing, organizing, training, promotion and other managerial activities involved in records creation, records maintenance and use and records disposition, including records preservation, records disposal and the records center or other storage facilities.

SERVICING - making information in records available to any agency for official use or to the public.

§ 56-4. Powers and duties of Records Management Officer.

The Records Management Officer shall have all the necessary powers to carry out the efficient administration, determination of value, use, preservation, storage and disposition of the public records kept, filed or received by the officers and departments of the Town.

- A. The Records Management Officer shall continually survey and examine public records to recommend their classification so as to determine the most suitable method to be used for maintaining, storing and servicing them under the following guidelines:
- (1) Disposition: records deemed obsolete and unnecessary according to the New York State Retention and Disposition Schedule are subject to disposition.
 - (2) Archival retention: information containing administrative, legal, fiscal, research, historical or educational value which warrants their permanent retention.
 - (3) Active retention: records not yet subject to disposition according to state law.
- B. The Records Management Officer shall establish guidelines for proper records management in any department of the Town government in accordance with local, state and federal laws and guidelines.
- C. The Records Management Officer shall operate a central records management storage facility for storage, processing and servicing of all Town records for all Town departments and agencies.
- D. Additional requirements of the Records Management Officer include but are not limited to:
- (1) The development of a comprehensive records management program.
 - (2) The conduct of an initial survey and analysis of all records, to be followed up annually with a report of records stored.

- (3) The encouragement and coordination of the continuous legal destruction of obsolete records through the adoption and use of the State Archive Record Retention and Disposition Schedules.
- (4) The development of suitable retention periods for records not covered by the State Records Retention and Disposition Schedules. (Subsequently, the RMO must secure approval of such retention periods from the New York State Commissioner of Education and gain adoption from the Town Board of any proposed changes before the retention period takes effect.)
- (5) The assistance to each department for the establishment of a records management system to support the overall Town records management program; encourage the continued efficient management of records within respective departments.
- (6) The setting up and overseeing of a center for the storage of inactive records.
- (7) Maintain archival materials which are not official Town records but which have historical value to the community or close relationship to the existing archival collection. This shall be subject to archive space, staff, and cost limitations, and to the potential endangerment of such materials if they are not collected by the archives.
- (8) The coordinating and carrying out or participating in the planning for development or advanced records management systems and equipment.
- (9) The preparation of special and annual reports for the Town Board on records management program progress, cost savings and cost avoidance problems and additional issues.

§ 56-5. Records Advisory Board.

- A. There shall be a Records Advisory Board designated to work closely with and provide advice to the Records Management Officer. The Board shall consist of four members, which are the RMO, Town Historian, Town Supervisor and Deputy Town Clerk
- B. The Board shall meet periodically and have the following duties:
 - (1) Provide advice to the Records Management Officer on the development of the records management program.
 - (2) Review the performance of the program on an ongoing basis and propose changes and improvements.
 - (3) Review any changes in retention periods proposed by the Records Management Officer for records not covered by the state archive schedules.
 - (4) Provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what is or is not archival.

§ 56-6. Custody and control of records.

- A. Active records. The originating department has full custody (legal and physical) over records still in active use.
- B. Inactive records. The originating department is the legal custodian of its records and shall retain the power to retrieve and use records deposited in inactive storage in the Records Center. The RMO will have physical custody of inactive records and will determine the method and design of storage.
- C. Archival records. Records transferred to or acquired by the archives shall be under the full custody (legal and physical) of the archives, as directed by the RMO, rather than the department which created or held them immediately prior to being transferred to the archives.
 - (1) Records shall be transferred to the archives upon the recommendation of the RMO, with the approval of the head of the department which had custody of the records and the approval of the Records Advisory Board.
 - (2) Records may be removed (temporarily or permanently) from the archives at the request of the RMO or the head of the department which had custody of the records immediately prior to the transfer of those records to the archives, subject to the approval of the Records Advisory Board.

§ 56-7. Disposition of records.

No records shall be destroyed or otherwise disposed of by a department of the Town until it has met the time limit on the State Records Retention and Disposition Schedule and unless approved of the Records Management Officer. No records shall be destroyed or otherwise disposed of by the Records Management Officer without the express written consent of the department head having authority. Following required consents and prior to actual destruction, the RMO will allow the Town Historian to review and/or remove any single document, or sampling of documents that are of historic value to the community.

§ 56-8. Recovery of records.

The Town Board may take steps to recover local government records which have been alienated for proper custody and may when necessary, institute actions to recover such records.

Article II. Access to Public Records

§ 56 -9. Purpose; 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 Freedom of Information Law, 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.

§ 56 -10. Records Access Officer.

- A. The Town Board of the Town of Canandaigua, Canandaigua, New York, is responsible for insuring compliance with the regulations herein, and designates the Town Clerk as Records Access Officer.
- B. The Freedom of Information Law, which took effect on January 1, 1978, gives the public the right of access public records. The Town Board of the Town of Canandaigua has adopted regulations governing when, where, and how the public can see public records. The following officials will help the RAO exercise the public's right to access public records:
 - 1. Agency officials who have in the past been authorized to make records available.
- C. Any person denied access to a record may appeal, within 30 days, in writing, such denial to the Town Board. The Town Board, designated as the appeal agency for determination of denials, will proceed as follows:
 - 1. The Town Board shall, within 10 business days of the receipt of an appeal, fully explain in writing to the person requesting the record, the reason for further denial or the Town Board shall provide access to the record sought.
 - 2. The Town Board shall forward to the Committee on Open Government a copy of such appeal when received by the Town and shall also forward to the Committee on Open Government the ensuing determination thereon.
- D. The Records Access Officer is responsible for ensuring appropriate agency response to public requests for access to records. The designation of the 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. The Records Access Officer shall insure that 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 involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.
- 4) Upon locating the records, take one of the following action:
 - (i) Make records available for inspection; or
 - (ii) Deny access to the records in whole or in part and explain in writing the reasons therefore.
- 5) Upon request for copies of records:
 - (i) Make a copy available upon payment or offer to pay established fees; or,
- 6) Upon request, certify that a record is a true copy; and
- 7) Upon failure to locate records, certify that:
 - (i) The RMO is not the custodian for such records; or,
 - (ii) The records of which the RMO is a custodian cannot be found after diligent search.

§ 56 -11. Location of records.

Records shall be available for public inspection at the Canandaigua Town Hall, 5440 Route 5 and 20 West, Canandaigua, New York 14424.

§ 56 -12. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during normal business hours. These hours are as posted at the front entrance to Town Hall and on the Town's website.

§ 56-13. Requests for access to records.

- A. A written request may be required, but oral requests may be accepted when records are readily available.
- B. If records are maintained on the Town's website, the requester shall be informed that the records are accessible via the Town's website and in printed form either on paper or other information storage medium.

- C. A response shall be given regarding any request reasonably describing the record or records sought within five business days of receipt of the request.
- 1) 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 records;
 - 2) Granting or denying access to records in whole or in part;
 - 3) 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 20 business days after the date of the acknowledgement, or if it is known that circumstances prevent disclosure within 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
 - 4) 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 20 business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within 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.
- D. 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.
- E. A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:
- 1) Fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;
 - 2) Acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;
 - 3) Furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;

- 4) Fails to respond to a request within a reasonable time after the approximate date given or within 20 business days after the date of the acknowledgment of the receipt of a request;
- 5) Determines to grant a request in whole or in part within 20 business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;
- 6) Does not grant a request in whole or in part within 20 business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or
- 7) Respond to a request, stating that more than 20 business days are needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

§ 56-14. Subject matter list.

- A. 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 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 annually. The most recent update shall appear on the first page of the subject matter list.

§ 56-15. Denial of access to records.

- A. Denial of access to records shall be in writing stating the reason therefore and advising the requester of the right to appeal to the Town Board.
- B. If requested records are not provided promptly, as required in §56-13 of these regulations, such failure shall also be deemed a denial of access.
- C. The Town Board of the Town of Canandaigua shall hear appeals for denial of access to records under the Freedom of Information Law.
- D. Any person denied access to records may appeal in writing to the Canandaigua Town Board within 30 days of a denial.

- E. The time for deciding an appeal by the Canandaigua Town Board shall commence upon receipt of a written appeal identifying:
- 1) The date and location of requests for records;
 - 2) A description, to the extent possible, of the records that were denied; and
 - 3) The name and return address of the person denied access.
- F. A failure to determine an appeal within 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.
- G. The person or 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:

Committee on Open Government
NYS Department of State
41 State Street
Albany, New York 12231

- H. The person or body designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination in writing within 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 G of this section.

§ 56-16. Fees.

- A. There shall be no fee charged for:
- (1) Inspection of records;
 - (2) Search for records; or
 - (3) Any certification pursuant to this chapter.
- B. Fees for copies shall be in accordance with the fees established by the Town Board at its annual organizational meeting.
- 1) The fee for copying records shall not exceed \$0.25 per page for photocopies not exceeding nine inches by 14 inches. This section shall not be construed to mandate the raising of fees where agencies or municipalities in the past have charged less than \$0.25 for such copies.

- 2) The fee for copies of records not covered by the fees established by the Town Board, shall not exceed the actual reproduction cost which is the average unit cost for copying a record, excluding fixed costs of the agency such as operator salaries.

§ 56-17. Public notice.

A notice containing the title or name and business address of the Records Access Officer and appeals person or 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.

§ 56-18. Severability.

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 6 of 2014 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on July 14 2014, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 7/26/14

(Seal)