

**CHAPTER 13**  
**PUBLIC ACCESS TO RECORDS**  
**Of**  
**MONTAUK PUBLIC LIBRARY**  
**(FOIL: Freedom of Information Legislation)**

The following regulation is hereby enacted by the Montauk Library Board of trustees in accordance with Public Officers Law, Article "6", Sections "84" through "90", commonly known as the Freedom of Information Act, and hereinafter referred to as the "Act."

**ARTICLE I**

The Library Director is hereby designated as the Records Access Officer. The Records Access Officer is the person from whom those Library records, memoranda, documents, or other written information required to be made available to the public by the Act may be obtained. In the absence of the Library Director, the Librarian-in-Charge is so designated as the Records Access Officer.

**ARTICLE II**

Request for inspection or copies of such records required to be made available by the Act, as well as other applicable law, may be made to the Library Director at the Director's office during hours in which the Library is regularly open for business. These hours shall ordinarily be Monday through Friday from 10 AM to 4 PM.

**ARTICLE III**

Request to inspect records, or to secure copies thereof, shall be submitted to the Library's Records Access Officer by completion of a requisition form, or by electronic email request.

a) The requisition form or electronic request shall contain the name and address of the Requestor, identification of the record, document or other data required; with as great a degree of clarity and specificity as may be practical.

b) In the event a copy of the particular document, record or other data is requested, a fee payable by check or money order to the order of the Montauk library shall be paid as follows:

- 1) 25 cents per page for photocopies not exceeding 9"x14" or
- 2) The actual cost of reproducing any other form of record, as follows:
  - i. an amount equal to the hourly salary attributed to the lowest paid Library employee who has the necessary skill required to prepare a copy of the requested record:
  - ii. The actual cost of the storage device or media provided to the person making the request in complying with such request:
  - iii. The actual cost to the Library of engaging an outside professional service to prepare a copy of the record, but only when the Library's information technology equipment is inadequate to prepare a copy, if such service is used to prepare a copy; and:

iv. Preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of Library 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 the Library's employee's time is needed, or if an outside professional service would be retained to prepare a copy of the record.

3) All fees received shall be turned over to the Library Treasurer.

#### **ARTICLE IV**

The Library shall maintain a register which shall include the date of requisition, the name and address of the Requestor and a description of the documents or records to be examined or copied, as well as action taken by the Records Access officer in response to such requisition, and a notation of the fees received.

#### **ARTICLE V**

The Library shall maintain the following records:

- a) a record of the final vote of each Library trustee in every Library proceeding in which the Trustee votes;
- b) a record setting forth the names, public office address, title and salary of every officer or employee of the Library; and
- c) a reasonable detailed current list, by subject matter, of all records in the Library's possession, whether or not such records are available pursuant to subdivision "2" of Section "87" of the Public Officers Law, which list shall be sufficiently detailed to permit identification of the category of the records requested. The Library shall update its subject matter list annually, and the date of the most recent update shall be conspicuously indicated on the list.

#### **ARTICLE VI Procedures**

- a) Within five business days of the receipt of a written request for a record reasonably described, the Library will make such record available to the person requesting it, deny such a request in writing or 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, including, where appropriate, a statement that access to the record will be determined in accordance with subdivision "5" of Section "89" of the Public Officers Law. The Library will not deny a request on the basis that the request is voluminous or that locating or reviewing the requested records or providing the requested copies is burdensome because the Library lacks sufficient staffing or on any other basis if the Library may engage an outside professional service to provide copying, programming or other services required to provide the copy, the costs of which the Library may recover from the requestor of the records pursuant to paragraph © of Subdivision "1" of Section "87" of the Public Officers Law.

- b) The Library 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 the Library determines to grant a request in whole or in part, and if the circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the Library will state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part. Upon payment of, or offer to pay, the fee prescribed therefore, the Library shall provide a copy of such record and certify to the correctness of such copy if so requested, or as the case may be, shall certify that it does not have possession of such record or that such record cannot be found after diligent search. The Library shall not be required to prepare any record not possessed or maintained by the Library except the records specified in Subdivision “3” of Section “87” and Subdivision “3” of Section “88” of the Public officers Law. When the Library has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, it shall do so. When doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the Library will retrieve or extract such record or data electronically. Any programming necessary to retrieve a record maintained in a computer storage system and to transfer that record to the medium requested by a person or to allow the transferred record to be read or printed shall not be deemed to be the preparation or creation of a new record.

- b) The Library will accept requests for records submitted in the form of electronic mail and shall respond to such requests by electronic mail, using forms, to the extent practicable, consistent with the form or forms developed by the NYS Committee on Open Government pursuant to Subdivision “1” of Section “89” of the Public Officers Law, provided that the written requests do not seek a response in some other form.

- c) In the event that in a portion of the material, records or documents requested is deemed by the Records Access Officer to be excludable material as outlined in Article VII hereof, the Records Access Officer is authorized and directed to delete such information from any copies made available to the requestor, or to not make available for inspection the original of such record but only a copy thereof having first deleted the unauthorized information.

## ARTICLE VII

No record shall be made available for inspection or copying where, in the judgment of the Records Access Officer, the disclosure of such records:

- a) is specifically excepted from disclosure by state or federal statute;
- b) is an unwarranted invasion of personal privacy, including:
  - i. disclosure of employment, medical or credit histories or personal references of applicants for employment;
  - ii. disclosure of items involving the medical or personal records of a client or patient in a medical facility;
  - iii. sale or release of lists of names and addresses if such lists would be used for solicitation or fund-raising purposes;
  - iv. 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 maintaining it;
  - v. disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency; or
  - vi. information of a personal nature contained in a workers' compensation record, except as provided by Section "110-a" of the Workers' Compensation Law.Unless otherwise provided by law, disclosure shall not be construed to constitute an unwarranted invasion of personal privacy pursuant to paragraphs (a) and (b) of this subdivision:
  - i. when identifying details are deleted;
  - ii. when the person to whom a record pertains consents in writing to disclosure;
  - iii. When upon presenting reasonable proof of identity, a person seeks access to records pertaining to him.
  - iv. when a record or group of records relates to the right, title or interest in real property, or relates to the inventory, status or characteristics of real property, in which case disclosure and providing copies of such record or group of records shall not be deemed an unwarranted invasion of personal privacy.
- c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- d) 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;
- e) are not relevant or essential to the ordinary work of the library;
- f).are inter-agency or intra-agency materials which are not:
  - i. statistical or factual tabulations or data;
  - ii. instruction to staff that affect the public
  - iii. final agency policy or determinations; or
  - iv. external audits
- g) Medical reports or records;
- h) if disclosed, would interfere with judicial proceedings or pending claims;
- i) Record related to the circulation of library materials which contain names or other personally identifying information regarding the users of the library;
- j) Relate to items of a personal nature when disclosure would result in an economic or personal hardship to a subject party and such records are not relevant or essential to the ordinary work of the library; or

k) if disclosed, would jeopardize the Library's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures.

Should the requested record be exempt as set forth in this Article VII, the Records Access Officer shall deny such request, in writing, and furnish a written acknowledgement of receipt of such request, and advise the Requestor of the right to appeal.

### **ARTICLE VIII**

In the event of the refusal of the Access Records officer to furnish Library records or other data to which the requester declares entitlement, the Requestor may submit a written appeal directed to the Library Board of Trustees within thirty days of the denial from which such appeal is taken. The Library Board of Trustees is hereby authorized to investigate all facts surrounding the particular requisition, including an interview with the Requestor, for the purpose of ascertaining the exact record the document sought, the purpose for which such document is sought in the event the Records Access Officer has declined to deliver the document by virtue of a determination by the Records Access Officer that such document is an excluded document under this Act or other law, and all other facts relevant to the particular requisition. A decision on such appeal shall be rendered thereon within ten(10) business days of the Board of Trustees' receipt of the Appeal and shall fully explain in writing the reason for further denial. In addition, the Library shall immediately forward to the NYS Committee on Open Government a copy of such an appeal, the requestor shall have the right to commence an Article 78 proceeding in the Supreme Court, Suffolk County, to compel the production of the particular document or record.

### **ARTICLE IX**

The following documents and record, whether produced, filed or maintained by the Library, shall be available for public inspection and examination:

- a) Library Board minutes and a record of the vote of each Trustee
- b) Bid Specification publicly Bid
- c) Public Bids
- d) Purchase Orders and Contracts
- e) Records of Library receipts and expenditures, including checks
- f) Records setting forth name, Library address, title, salary of every officer or employee which shall be compiled by each fiscal officer charged with the duty of preparing payrolls for such officers and such records shall be made available for inspection by the officer charged with the duty of certifying such payrolls.
- g) Employee organization contracts
- h) Library policies of any kind or nature
- i) Library regulations
- j) Insurance policies
- k) Audits, either internal or external
- l) List by subject matter of all records maintained by the Library, whether or not subject to disclosure as a public record pursuant to statute.

**ARTICLE X**

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 maintained and/or published in a local newspaper of general circulation.

**ARTICLE XI**

This regulation, as amended, shall be deemed effective on July 1, 2009.

**ARTICLE XII**

If any provisions of these regulations or the application thereof to any person or circumstances are 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.

**MONTAUK LIBRARY**  
**APPLICATION FOR PUBLIC ACCESS TO RECORDS**

TO: RECORDS ACCESS OFFICER  
MONTAUK LIBRARY  
PO BOX 700  
MONTAUK, NEW YORK 11954

I hereby apply to inspect the following record and hereby certify that this record will not be used for private, commercial or fund-raising purposes:

Signature: \_\_\_\_\_

Representing:

Date:

Mailing Address:

\_\_\_\_\_

APPROVED \_\_\_\_\_ RECORD WILL BE AVAILABLE ON: \_\_\_\_\_

Please notify us when you would like to inspect the aforementioned document.

DENIED (for the reason (s) checked below) \_\_\_\_\_

Confidential Disclosure \_\_\_ Part of investigatory files \_\_\_\_\_

Would impair present or imminent contract awards or collective bargaining negotiations

\_\_\_\_\_

Unwarranted invasion of personal privacy \_\_\_\_\_

Related to employment, medical or credit histories, or personal references of employment applicants' \_\_\_\_\_

Record of which this Agency is legal custodian cannot be found \_\_\_\_\_

Record is not maintained by this Agency \_\_\_\_\_

Exempted by Federal or State statute \_\_\_\_\_

Other \_\_\_\_\_ Specify \_\_\_\_\_

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

NOTICE: You have the right to appeal a denial of this application to the Library Board of Trustees within 30 days of the date of this denial.

Name \_\_\_\_\_ Business Address \_\_\_\_\_

Who must fully explain his reasons for such denial in writing within seven days of receipt of an appeal.

I hereby appeal:

Signature \_\_\_\_\_ Date \_\_\_\_\_

## **You Have a Right to See Public Records**

The amended Freedom of Information Law, which took effect on January 1, 1978, gives you the right of access to many public records.

Montauk Public Library has adopted regulations governing when, where and how you can see public records.

The regulations can be seen at all places where records are kept.

According to these regulations, records can be seen and copied at the Library facility:

871 Montauk Highway  
Montauk, New York

The following officials will help you to exercise your right to access:

Records Access Officers, Library Director  
Montauk Library  
871 Montauk Highway  
Montauk, New York

If you are denied access to a record, you may appeal to the following person (s) or body:

Board of Trustees  
Montauk Library  
PO Box 700  
Montauk, New York 11954