

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, New York 12231-0001

(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.

Town of Farmington, Ontario County, New York

Local Law no. 3 of the year 2023

A local law creating Chapter 38 of the Town Code of the Town of Farmington, Ontario County, New York, entitled "Records Management and Public Records Access."

Be it enacted by the Town Board of the

Town of Farmington as follows:

Section 1: Chapter 38, of the Town Code of the Town of Farmington to be entitled "Records Management and Public Records Access," is hereby established and shall read in its' entirety as provided for within this Local Law as follows:

Article I, Records Management.

§38-1. 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 and records management access 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.

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It contains information on taxation and on the management and expenditure of public funds. These records will also document the historical development of government itself, the community and the people of the Town.

§ 38-2. Program established; designation of Records Management Officer.

- A. A records management program is hereby established under the aegis of the Town Clerk and headed by the Records Management Officer (RMO). The Town Clerk is designated as the Records Management Officer (RMO) and is 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 designee(s) to carry out the specific duties listed in § 38-4 herein.

Article II - Definition of terms.

§ 38-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

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

RECORDS - Official files, minutes and documents, books, papers, photographs, electronic documents, sound recordings, video 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 ACCESS OFFICER - The person appointed by the Town Board, known as and referred to herein as the Records Management Officer (RMO), who administers the requests for public records in accordance with the rules and regulations contained in this chapter of the Town Code.

RECORDS CENTER - One or more central storage area(s) maintained by the Records Management Officer (RMO) for the storage, servicing, security and processing of records which must be preserved for varying periods of time.

RECORDS COURT, TOWN - Public access to Town Court Records are subject to the provisions of the New York State Judicial Law and, therefore, are not subject to provisions contained in this Chapter of the Town Code.

RECORDS DISPOSITION - The removal by the Town of Farmington, 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 ELECTRONIC - Official files, minutes and documents, in their native digital format for the legally proscribed retention period for said records as described in the adopted Local Governmental Services (LGS)-01 Schedule, regulations of the State Commissioner of Education Part 185.8, made or received on or after December 12, 2020 pursuant to Town Board Resolution No. 448 of 2020, or in conjunction with the transaction of official Town business on or after said date.

RECORDS JUSTICE, TOWN - The records of Town Justices (e.g. casefiles, financials, dockets, etc.) maintain by an active Justice and upon vacating the Office of Town Justice become property of the Town Record Management Officer (RMO).

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.

RECORDS MANAGEMENT OFFICER - The person appointed by the Town Board responsible for the administering the records management program, including public access to the records made under the State's Freedom of Information Law (FOIL), subject to the provisions established by this chapter and subsequent amendments thereto.

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

Article III - Records Management Officer.

§ 38-4. Powers and duties of Records Management Officer.

The Records Management Officer (RMO) shall have all the necessary powers to carry out the efficient administration and 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 RMO shall continually survey and examine public records to recommend their classification 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 Records Retention and Disposition Schedule are subject to disposition.

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2. Archival retention. Records containing information with administrative, legal, fiscal, research, historical or educational value which warrants their permanent retention are subject to archival retention.
 3. Active retention. Records not yet subject to disposition according to state law are subject to active retention.
- B. The RMO 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 RMO 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 RMO include but are not limited to:
 1. Development of a comprehensive records management program.
 2. Conduct of an initial survey and analysis of all records, to be followed up annually with a report of records stored.
 3. Encouragement and coordination of the continuous legal destruction of obsolete records through the adoption and use of the State Archive Records Retention and Disposition Schedules.
 4. Development of suitable retention periods for records not covered by the New York 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 change before the retention period takes effect.)

5. Assistance to each department for the establishment of a records management system to support the overall Town records management program and encouragement of the continued efficient management of records within respective departments.
6. Setting up and overseeing a center for the storage of inactive records.
7. Maintenance of 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. Coordination of and carrying out or participating in the planning for development of advanced records management systems and equipment.
9. Preparation of special and annual reports for the Town Board on the records management program's progress, cost savings and cost avoidance problems and additional issues.

Article IV - Custody and Control of Records.

§ 38-5. Classification 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.
 2. Records may be removed (temporarily or permanently) from the archives at the request of the RMO and the head of the department which had custody of the records immediately prior to the transfer of those records to the archives.
 3. Electronic Records may also be retained (temporarily or permanently) in the files of Town Departments after being removed from the archives by the RMO for as long as the Department Head determines they are needed.

Article V - 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 New York State Records Retention and Disposition Schedule, the adopted LGS-01 Schedule, regulations of the State Commissioner of Education, Part 185.8 or unless approved of by the RMO.

No records shall be destroyed or otherwise disposed of by the RMO 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.

Article VI. Access to Public Records.

§ 38-6. Public requests, decisions and appeals procedure.

In compliance with Article 6 of the New York State Public Officers Law, as may be amended from time to time, the following format will be followed:

- A. All requests for information from any Town Department shall be in writing, reasonably describing the record requested and submitted to the Town Clerk/Records Management Officer (RMO) during regular business hours of the Town of Farmington Town Clerk's Office.
- B. Within five (5) business days of the receipt of the written request, one (1) of the following will occur by the RMO:
 1. The record will be made available to the person requesting it.
 2. The request will be denied in writing.
 3. A written acknowledgment of the receipt of the request and a statement of the approximate date when such request will be granted or denied shall be forwarded.
- C. Any person denied access to a public record may appeal, within thirty (30) days of the date of denial in writing, such denial to the Town Board.
- D. The Town Board is hereby designated as the appeal agency for determination of denials and will proceed as follows:
 1. The Town Board shall, upon the receipt of an appeal at a regular scheduled Town Board meeting, 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 New York State Committee on Open Government a copy of such appeal when received by the appeal agency and shall also forward to said Committee the ensuing determination thereon. The State Committee address shall be:
NYS Committee on Open Government
Department of State
One Commercial Plaza
99 Washington Avenue, Suite 650
Albany, New York 12231

§ 38-7. Fees.

A set fee shall be charged per photocopy of a record. Such charge shall be established by resolution of the Town Board and shall be part of the Town's Annual Fee Schedule. No fee shall be charged for an electronic copy of a record.

Article VIII - Records Officials and Process.

§ 38-8. Records Access Officer.

- A. The Town Board of the Town of Farmington, Farmington, New York, is responsible for insuring compliance with the regulations herein and designates the Town Clerk as Records Management Officer (RMO)/Records Access Officer (RAO).
- B. The New York State Freedom of Information Law, which took effect on January 1, 1978, gives the public the right of access to public records. The Town Board of the Town of Farmington has adopted these regulations governing when, where, and how the public can see public records.
- C. The New York State Judicial Law establishes the rules and regulations for public access to Town Court Records. The Town Court Clerks are hereby designated to help the public with the procedures for obtaining Court Records.

§ 38-9. Location of Records.

Records shall be available for public inspection, during normal business hours, at the Farmington Town Hall, 1000 County Road 8, Farmington, New York, 14425.

§ 38-10. 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 or near the main public entrance to Town Hall and on the Town's website.

§ 38-11. Requests for Access to Records.

- A. All requests made to the RMO shall be in written format.
- B. If requested 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 electronic format.
- C. The process for providing a written response by the RMO or the Town Board are contained in §38-6 above herein.

§ 38-12. Subject Matter List.

- A. The RAO shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether records are available pursuant to Subdivision 2 of § 87 of the New York State 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.

§ 38-13. Denial Process.

- A. The time for deciding an appeal by the Farmington Town Board shall commence upon receipt of a written appeal at a regular scheduled public meeting and said appeal shall include:
- B. The date and location of requests for records;
- C. A description, to the extent possible, of the records that were denied; and
- D. The name and return address of the person denied access.
- E. A failure to determine an appeal, as provided for within the period identified in §38-6 D. 1. above 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.

§ 38-16. Public Notice.

A notice containing the title or name and business address of the Records Access Officer and the appeals body and the location where records can be seen or copied shall be posted in a conspicuous location on the Town Hall Bulletin Board.

Section 2: 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 this chapter or the application thereof to other persons and circumstances.

Section 3: This local law shall take effect immediately upon filing with the Secretary of State.

(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 number 3 of 2023, of the Town of Farmington, was duly passed by the Town Board on _____, 2023, in accordance with the applicable provisions of law.

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 number _____ of 2023 of the Town of Farmington was duly passed by the _____ on _____ 2023, and was (approved) (not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2023, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2023 of the Town of Farmington was duly passed by the Farmington Town Board on _____ 2023, and was (approved) (not approved) (repassed after disapproval) by _____ on 2023. 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 _____ 2023, 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 number _____ of 2023 of the Town of Farmington was duly passed by the Farmington Town Board on _____ 2023, and was (approved) (not approved) (repassed after disapproval) by the _____ on 2023. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2023, in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2023 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 _____ 2023, became operative.

* 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.

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law number _____ of 2023 of the County of _____ State of New York, having been submitted to the electors at the General Election of November 2023, 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 1 above.

Clerk of the Town

(Seal)

Date: _____