

# FREEDOM OF INFORMATION

## RULES & REGULATIONS FOR THE NIAGARA AREA DEVELOPMENT CORPORATION

Statutory authority: Public Officers Law, Sec. 89 (1) (b) (iii)

Section 1. General policy. The Niagara Area Development Corporation (“NADC”) will comply fully with the provisions of the New York State “Freedom of Information Law” of 1977, as amended, and will seek in every consonant with the public interest to protect and promote the public’s right of access to governmental records.

These Rules and Regulations may be changed from time to time as deemed necessary by the NADC and as outlined in guidelines from the State of New York Committee on Public Access to Records.

### Section 2. Definitions.

(a) “Record” means any information kept, held, filed, produced, or reproduced by, with or for the NADC in any physical form whatever. The NADC shall, in accordance with its published rules, make available for public inspection and copying all records, except that the Agency may deny access to records or portions thereof that;

- (1) are specifically exempted from disclosure by state or federal statute;
- (2) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine, Article 6, Public Officers Law;
- (3) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- (4) are trade secrets or are maintained for the regulation of commercial enterprise which if disclosed would cause substantial injury to the competitive position of the subject enterprise;
- (5) are compiled for law enforcement purposes and which if disclosed, would:
  - (i) interfere with law enforcement investigations or judicial proceedings;
  - (ii) deprive a person of a right to a fair trial or impartial adjudication;

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- (iii) identify a confidential source or disclose confidential information relating to a criminal investigation; or
  - (iv) reveal criminal investigative techniques or procedures, except routine techniques and procedures;
- (6) are examination questions or answers which are requested prior to the final administration of such questions.
- (b) “NADC” shall refer to the Niagara Area Development Corporation.

Section 3. Designation of Records Access Officer.

- (a) The Administrative Assistant is hereby designated the records access officer for the NADC, charged with the responsibility of coordinating the response to public request for access to records.
- (b) The records access officer is responsible for assuring that the NADC:
  - i. Maintain an up-to-date subject matter list;
  - ii. Assist the requester in identifying requested records, if necessary;
  - iii. Upon locating the records, take one of the following actions: (i) make records available for inspection, or (ii) deny access to the records in whole or in part and explain in writing the reasons therefor;
  - iv. Upon request for copies or records: (1) make a copy available upon payment or offer to pay established fees, if any; or (ii) permit the requester to examine those records;
  - v. Upon request, certify that a record is a true copy; and
  - vi. Upon failure to locate records, certify that: (i) the NADC is not the custodian for such records or (ii) the records of which the NADC is a custodian cannot be found after diligent search.

Section 4. Location. The record access officer shall designate the locations where records shall be available for public inspection.

Section 5. Hours for Public Inspection. The NADC shall accept requests for public access to records and produce records during regular business hours.

Section 6. Requests for Public Access to Records. The NADC shall honor all requests made, whether in writing or orally, within five (5) days of the receipt of a request which reasonably describes the records sought.

If the NADC fails to provide or denies access to the records sought within five (5) business days of receipt of the request, the NADC 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 the request, the request may be construed as denial that may be appealed as hereinafter set forth.

Section 7. Subject Matter List.

(a) The NADC shall maintain a reasonable detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to subdivision two of section eighty-seven 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.

Section 8. Denial of Access to Records.

(a) NADC Counsel shall review all appeals regarding denial of access to records under the Freedom of Information Law.

(b) Denial of access shall be in writing stating the reason therefor and advising the person denied access of his or her right to appeal to the Niagara Area Development Corporation, 6311 Inducon Corporate Drive, Suite One, Sanborn, NY 14132-9099.

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Section 8. Denial of Access to Records. (Continued...)

(c) If the NADC fails to respond to a request within five (5) business days of receipt of a request as required in Section 6, such failure shall be deemed a denial of access by the NADC.

(d) Any person denied access to records may appeal within thirty (30) days of a denial.

(e) The time for deciding an appeal by the NADC shall commence upon receipt of written appeal identifying; (i) the date and location of a request for records; (ii) the records that were denied; and (iii) the name and return address of the appellant.

(f) The NADC shall transmit to the Committee on Public Access to Records copies of all appeals upon receipt of an appeal. Such copies shall be address to:

Committee on Public Access to Records  
Department of State  
162 Washington Avenue  
Albany, NY 12231

(g) The NADC shall inform the appellant and the Committee on Public Access to Records of the determination in writing within seven (7) 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 subdivision (f) of this section.

(h) A final denial of access to a requested record, as provided for in subdivision (g) of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law & Rules.

Section 9, Fees.

(a) There shall be no fee charged for inspection of records, search for records, or any certification pursuant to this part.

(b) The NADC may provide copies of records at a fee of \$.25 cents per page for photocopies.

Section 10. Public Notice. The NADC shall publicize by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

(a) The location where records shall be made available for inspection and copying.

(b) The name, title, business address, and business telephone number of the designated records access officer.

(c) The right to appeal by any person denied access to a record and the name and business address of the person or body to whom an appeal is to be directed.