



# Town Board Hot Topics

Tug Hill Local Government Conference  
2026

*Presented by*

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## Today's Hot Topics

- New Animal Shelter Standards
- Animal Shelter Donations on Dog License Forms
- Conducting Revaluations
- Property Tax Exemptions – 100% Disabled Veterans
- Pennies – Payments in Cash
- Vexatious Foil Requests
- FOIL Case Law Update – Email Lists
- All-Electric Buildings Law
- Cannabis Current State
- Resignations





## Animal Shelters

### New Standards

## The Animal Welfare Challenge

- Rural communities (and all communities) across New York face an animal welfare crisis: large stray and feral populations coupled with new and sheltering obligations with no dedicated budget or staff
- Many towns do not operate a municipal shelter but remain responsible under Agriculture and Markets Law for dog control and the costs associated with it
- A new state law changes what is required of local governments



## New Law: Companion Animal Care Standards Act

- The Companion Animal Care Standards Act (CACSA) took effect **December 2025**; it establishes mandatory care, facility, and operational standards for all animal shelters and rescues in New York State
- All shelters are now licensed by the Department of Agriculture and Markets and subject to inspection
- **If your town operates a shelter:** You have direct CACSA obligations covering training, recordkeeping, facility standards, veterinary care, sanitation, and foster care agreements
- **If your town contracts with a shelter:** Review that contract now; CACSA compliance obligations need to be clearly allocated, and failure to comply falls on whoever operates the facility
- **If you have no shelter infrastructure:** You still have a dog control obligation; the question is how you are meeting it and at what cost to your budget



## What the Act Requires

- **Licensing:** Annual license (\$150/year) required; takes place of prior registration
- **Training:** All staff and volunteers with direct animal care duties trained within 60 days and annually; records kept for three years
- **Recordkeeping:** Individual animal records maintained for three years covering intake, departure, status, behavioral history, and all vet and behavioral exams



## What the Act Requires

- **Facility:** Non-porous surfaces; power and water at all times; temperature 60-80 degrees; ammonia levels below 2 ppm; documented air handling maintenance; separate housing for dogs and cats; isolation rooms for sick animals
- **Veterinary Care:** Animals assessed within two hours of intake; full physical exam within 24 hours; core and rabies vaccines by vet or vet tech; pain treatment required regardless of legal status; no adoption without spay/neuter
- **Foster Care:** Written agreements required with all foster providers; the shelter bears legal responsibility for foster compliance



## The Companion Animal Capital Fund

- The Companion Animal Capital Fund (CACF) is a NYS grant program administered by the Department of Agriculture and Markets that has invested over \$38 million in shelter capital projects since 2018
- The CACF was designed specifically to help shelters and municipalities fund the capital improvements needed to meet CACSA standards
- **Who can apply:** All non-profit and municipal animal shelters, humane societies, SPCAs, animal protective associations, and non-residence based rescues; most local governments are already in the State Financial System

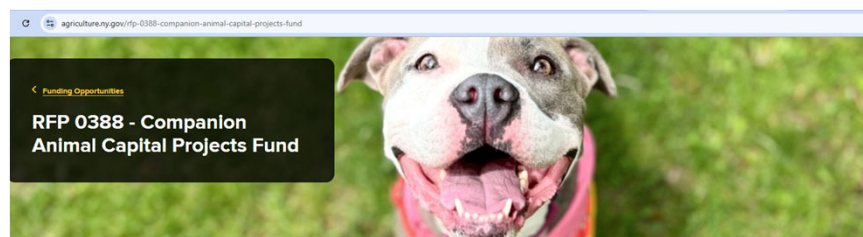


## The Companion Animal Capital Fund

- **Grant amounts:** \$20,000 to \$500,000; grants fund project components such as HVAC, kennels, isolation rooms, and cat housing, not entire facility builds
- **Match:** 10% municipal or organizational match required
- **Important:** Grants are awarded in annual rounds; watch the DAM website for RFP releases and engage early



## The Companion Animal Capital Fund



### On this page

- Overview
- Apply

### Overview

The Department invites eligible municipal and incorporated not-for-profit pounds, shelters, humane societies, and rescue facilities to submit proposals for funding consideration from the Companion Animal Capital Projects Fund. Grant funds are available for the costs of capital projects, including construction, renovation, rehabilitation, installation, acquisition or expansion of buildings, equipment or facilities necessary for the secure containment, health, and adequate care of sheltered dogs and cats.



# The Companion Animal Capital Fund

Apply

## Apply

Proposals for funding under this RFP must be submitted online through the [Statewide Financial System \(SFS\) Vendor Portal](#). PROPOSALS MUST BE SUBMITTED through the SFS Vendor Portal by 4:00 p.m. local time on January 30, 2026, to be considered for funding. Proposals received after the scheduled date and time will not be accepted. Faxed, mailed or emailed proposals will not be accepted.

Complete details on how to apply are available in the RFP below.

	<a href="#">Request for Proposals - RFP 0388 - Companion Animal Capital Projects Fund</a>	 DOWNLOAD
	<a href="#">Sample Contract - RFP 0388 - Companion Animal Capital Projects Fund</a>	 DOWNLOAD
	<a href="#">Questions and Answers - RFP 0388 - Companion Animal Capital Projects Fund</a>	 DOWNLOAD



## What You Can and Cannot Fund

- **Eligible:** Construction, renovation, rehabilitation, installation, acquisition, or expansion of buildings, equipment, or facilities necessary for secure containment, health, and adequate care of sheltered dogs and cats; HVAC systems; medical equipment used exclusively for sheltered animals; labor by outside contractors; labor by municipal employees; project oversight by shelter management



## What You Can and Cannot Fund

- **Ineligible:** Medical equipment used for community or outpatient services; labor by shelter employees or volunteers (unless municipal employees); land purchase; architect and design fees; archaeological studies; driveway paving; vehicles
- Applications must demonstrate how the project advances compliance with the Association of Shelter Veterinarians 2010 Standards of Care;




## What Your Town Should Do Now

- **If you operate a municipal shelter:** Confirm your Ag & Markets license application is filed; that staff training is documented, and that your facility can meet the physical plant requirements
- **If you contract with a shelter:** Pull your contract and review how CACSA compliance obligations are allocated; your municipality may bear liability for a facility it does not operate
- **If you have no shelter infrastructure:** Document how you are meeting your dog control obligation and what it costs; consider whether a regional approach with neighboring localities makes sense
- **Apply for CACF grants**




# What Your Town Should Do Now



**NEW YORK STATE**  
**DEPARTMENT OF AGRICULTURE AND MARKETS**  
 100 ARLINE DRIVE, ALBANY, NY 12235  
**DIVISION OF ANIMAL INDUSTRY**  
**SHELTER RESCUE LICENSE APPLICATION**

<b>FRONT &amp; BACK OF APPLICATION MUST BE FULLY COMPLETED! Should you fail to provide all the requested information and a signature, your application will not be processed.</b>		<b>Office Use Only</b>	
Please submit: \$150.00 non-refundable annual license fee.  Include license fee by check/money order payable to "NYS Dept. of Agriculture & Markets".  Renewal applications must be submitted to the commissioner at least 30 days prior to the commencement of the next license year.		Receipt No. _____ Amount Received <input type="checkbox"/> \$150 INSPECTOR(S) _____	
NEW APPLICANT <input type="checkbox"/>	RENEWAL APPLICATION FOR LICENSING PERIOD EXPIRING _____	FEE \$150	LICENSE # _____
Name of Organization President or Executive Director _____			
Organization Name _____	Name of Primary Organization Contact _____	Fed. ID # or Soc. Sec. # <b>(REQUIRED)</b> _____	
This establishment should be categorized as a: (check all that apply)			
<input type="checkbox"/> Shelter Rescue <input type="checkbox"/> Municipal Shelter <input type="checkbox"/> SPCA <input type="checkbox"/> Humane Society <input type="checkbox"/> Animal Protective Association			
<input type="checkbox"/> Other Incorporated Animal Adoption/Rescue Organization (Please specify) _____			
Organization Street Address _____		City _____	State _____ Zip _____
County _____	Date Organized _____	Org. Tel # _____	Org. Fax # _____
Mailing Address (if different) _____ Attn: _____	Street _____	City _____	State _____ Zip _____
Please list any other premises owned or leased by each applicant's organization to carry out the purposes for which it was incorporated.			
1. _____ 2. _____ 3. _____ 4. _____			
E-mail address _____		Website URL _____	
NYS Charities Bureau Registration # <b>(REQUIRED except for non-profit status)</b> _____			





**NYAOT**  
 Celebrating America's 250<sup>th</sup> Birthday

## Dog License Applications

## Animal Shelter Donations

## Donations to Animal Shelters

### Chapter 420 - Laws of 2025

Effective - October 26, 2025

Agriculture and Markets Law §109(1)(c) now requires that dog license applications inform applicants about the option to donate to the dog shelter.



## Donations to Animal Shelters

### Shelter Donation Requirements on Dog License Applications:

**Distinct Visibility:** The space for donations must be clearly marked and distinct, using bold lettering or placed on a separate page.

**Voluntary Nature:** It must be explicitly clear that the contribution is voluntary and not part of the required license fee.

**Recipient Disclosure:** The application must list the specific organization that will receive the funds (typically the local municipal shelter or a contracted animal shelter service).

**Suggested Amounts:** Municipalities may list suggested reasonable contribution amounts and must include an option for the owner to enter any amount.



## Donations to Animal Shelters

- The Town of Chili in Monroe County Dog License Application includes the new shelter donation language -  
<https://www.chiliny.gov/DocumentCenter/View/1399/Dog-License-Application-PDF-Docs>
- *“You may also make a voluntary donation with this application in support of the Town of Chili Dog Shelter. Yes, \_\_\_ I would like to make a donation and have included \$ \_\_\_\_\_ with this application for this purpose. No, \_\_\_ I would not like to make a donation. Enclosed is my license fee only”.*



## Donations to Animal Shelters

- **Dedicated Funding:** All monies collected from these voluntary donations must be deposited into a dedicated fund by the municipality
- The proceeds of such fund shall be properly accounted for and be given to the organization listed on the application **annually**.
- In no event shall the funds derived from voluntary contributions replace any existing funding commitments to such organizations.
- Work with your municipal fiscal officer
- One Option – Create a Miscellaneous Special Revenue Fund (CM) for this purpose.
- See OSC Accounting and Reporting Manual
- <https://www.osc.ny.gov/files/local-government/publications/pdf/arm.pdf>
- Contact Regional OSC Office with Fiscal Questions
- <https://www.osc.ny.gov/local-government/contact-division-local-government-and-school-accountability>





## Conducting Revaluations

### Authority

### Revaluations

- Who has the authority to conduct a reval?
- Contrary to popular belief, a revaluation of the real property values in the **lies solely with the assessor**
- The governing body cannot “force” a revaluation or reject a revaluation.
- What is a reval? A systematic review of all real property in the assessing jurisdiction and does not necessarily entail a reinspection or reappraisal of every individual parcel in the town



## Revaluations

- While the town board is responsible for funding the cost of the appraisal (and must approve), only the assessor has the authority to set the valuation of the properties and accept or reject any revaluation
- Unhappiness with the new assessment does not render the reval invalid!!



## Revaluations

- Any localities that receive a cyclical assessment grant from the state must conduct a reassessment every four years – at minimum – at 100% of value. If a locality receives this grant and fails to conduct the revaluation within the required period of time, it must pay any aid received back to the state
- Haven't conducted a reval in decades? May want to consider special state legislation to phase in the new assessments
- *Question received: can the town board take the cost of the reval from the assessor's salary?*





## **Property Tax Exemption**

### **100% Disabled Veterans**

### **The Legislative History: Two Steps**

- **Chapter 672 of the Laws of 2025** (effective December 19, 2025):
  - Added RPTL § 458-a (11)
  - Created a local option 100% exemption for qualifying 100% service-connected disabled veterans
  - Municipalities had to affirmatively opt in; not automatic



## The Legislative History: Two Steps

- **Chapter 77 of the Laws of 2026** (signed February 13, 2026):
  - Removed the local option language entirely
  - Made the enhanced 100% exemption **mandatory statewide**
  - Adjusted effective date to assessment rolls based on taxable status dates **on or after October 1, 2026**
  - Clarified the exemption works **in addition to** other veterans exemptions under § 458-a



## The Bottom Line: What Local Governments Need to Know

- **No local action is required:** The exemption is now mandatory statewide; there is no opt-in or opt-out
- **The opt-in deadline is gone:** Chapter 77 eliminated the local option structure entirely, including the March 1, 2026 opt-in deadline that existed under Chapter 672
- **First mandatory application:** Assessment rolls based on taxable status dates on or after October 1, 2026 (the 2027 final assessment roll for most municipalities)



## The Bottom Line: What Local Governments Need to Know

- **Practical effect:** The exemption will apply to **2027-2028 school taxes** and **2028 town and county taxes** for all localities
- **DTF guidance is forthcoming:** The Department of Taxation and Finance has not yet issued implementing guidance; assessors should document inquiries and advise veterans to apply when forms are available



## How This Fits With the Existing RPTL § 458-a Framework

- Under the existing alternative veterans exemption structure in § 458-a, qualifying veterans can receive up to a **75% exemption** based on a sliding scale:
  - 15% for wartime service
  - 10% for combat zone service
  - Up to 50% based on disability rating
  - Maximum combined: 75% (wartime + combat zone + 50% disability rating)
- The new subdivision 11 provides a **100% exemption** for a narrower subset of 100% disabled veterans who meet all qualifying criteria
- The 100% exemption works **in addition to** any other exemptions available under § 458-a; it is not a replacement



## Qualifying Criteria: Discharge Requirement

- A veteran must demonstrate **one** of the following discharge statuses:
  - Discharged or released under **honorable conditions**
  - Has a **qualifying condition** as defined in Veterans' Services Law § 1, and received a discharge other than bad conduct or dishonorable
  - Is a **discharged LGBT veteran** as defined in Veterans' Services Law § 1, and received a discharge other than bad conduct or dishonorable
- Note: A bad conduct or dishonorable discharge disqualifies the veteran regardless of disability status



## Qualifying Criteria: Disability and Assistance (All Four Required)

- **All four** of the following criteria must be satisfied:
  - **1.** Permanently and totally disabled as a result of military service
  - **2.** Rated **100% disabled** by the U.S. Department of Veterans Affairs
  - **3.** Rated **individually unemployable** by the VA
  - **4.** Eligible for or has received **pecuniary assistance from the U.S. government** (i.e., a VA Specially Adapted Housing grant) applied toward the acquisition or modification of a housing unit with special features necessitated by the veteran's disability
- This is a narrower class than the existing 75% maximum exemption recipients; meeting criteria 1 and 2 alone is not sufficient



## Qualifying Criteria: Property Requirement

- The property must be the veteran's **primary residence**, consistent with the existing primary residence requirement throughout § 458-a
- The 100% exemption applies to the primary residence and necessary land that includes the specially adapted features necessitated by the veteran's disability
- Secondary residences, investment properties, and properties not used as a primary home do not qualify
- Assessors should apply the same primary residence analysis used for other § 458-a exemptions



## Key Dates

- **December 19, 2025** Chapter 672 of the Laws of 2025 enacted; local option exemption created
- **February 13, 2026** Chapter 77 of the Laws of 2026 signed; local option removed, exemption made mandatory effective October 1, 2026
- **March 1, 2026** Taxable status date for most municipalities (this roll is **not** affected by the new exemption)
- **October 1, 2026** Amended effective date; rolls based on taxable status dates on or after this date are subject to the mandatory exemption
- **July 1, 2027** Final assessment rolls for 2027 filed; first rolls to which the mandatory exemption applies
- **2027-2028 school taxes and 2028 town and county taxes** First tax bills that will reflect the exemption for all localities



## The Retroactivity Question

- Chapter 77 retroactively removed the local option from Chapter 672, creating questions about whether local laws enacted under Chapter 672 remain valid
- Based on non-binding guidance from the State, the most prudent course of action is to **implement the exemption on rolls finalized on or after October 1, 2026** regardless of whether a local law was enacted under Chapter 672
- Key takeaway: the local option structure no longer matters; the exemption is mandatory for all localities for the 2027 roll and beyond



## The Retroactivity Question

- Guidance from the Department of Taxation and Finance is still forthcoming; assessors should continue to document veteran applicant inquiries in the meantime
- Assessors who enacted local laws under Chapter 672 should consult with counsel; those local laws are **not required** for the mandatory exemption to take effect



## Guidance for Assessors

- **DO:** Document all veteran applicant inquiries now, even before DTF guidance and application forms are available
- **DO:** Advise applicants to apply when forms become available; the application process will follow standard § 458-a procedures
- **DO:** Apply the exemption to all qualifying applications on rolls based on taxable status dates on or after October 1, 2026
- **DO:** Monitor DTF guidance; implementing regulations and forms are expected



## Guidance for Assessors

- **DON'T:** Require a local law before processing applications; Chapter 77 made the exemption mandatory without local action
- **DON'T:** Deny applications solely because the applicant received less than an honorable discharge; review whether the veteran meets the qualifying condition or LGBT veteran criteria



## Also New: Enhanced Senior Exemption (Chapter 581 of the Laws of 2025)

- **What it does:** Authorizes (but does not require) local governments to offer an enhanced senior exemption of up to **65%** for low-income seniors, increased from the previous statutory maximum of 50%
- **Statutory authority:** RPTL § 467; effective December 5, 2025
- **Income threshold:** Locality may set eligibility for seniors earning between \$3,000 and \$50,000



## Also New: Enhanced Senior Exemption (Chapter 581 of the Laws of 2025)

- **Local action required:** Board resolution or local law is needed to implement; the increase to 65% is not automatic
- **Existing local laws:** If the town currently has a local law authorizing a 50% exemption, a **new local law** is required to shift to the 65% maximum
- **Bottom line:** This is a local option benefit; towns that want to offer the enhanced rate must take affirmative board action before it applies





## Pennies

### Payments in Cash

## The Penny Phase-Out

- On November 12, 2025, the U.S. Mint pressed its final penny
- Pennies remain **legal tender**; they will not disappear overnight
- As pennies leave circulation, cash transactions will *eventually* require rounding (nearest five cents?)
- Electronic payments, checks, and credit/debit cards: unaffected and always paid in the exact amount
- 31 U.S.C. § 5103: collecting officers must accept all U.S. coins and currency, including pennies, as legal tender



## The Warrant & Exact Amount Requirement

- The warrant provides collecting officers legal authority to collect the exact tax amount listed, plus applicable interest and penalties
- Collecting officers have no authority to reduce the amount due at their own discretion
- No authority exists to round, waive de minimis amounts, or credit small overages to the locality
- Underpayments cannot be accepted unless the town has adopted a partial payment program by appropriate resolution
- Overpayments, even minimal ones, must be refunded to the taxpayer; no statute permits the municipality to retain them



## Cash Rounding: How It Works

- **When pennies are unavailable, cash rounds to the nearest 5¢:**
  - Ends in 1¢ or 2¢: round DOWN (e.g., \$42.61 → \$42.60)
  - Ends in 3¢ or 4¢: round UP (e.g., \$42.63 → \$42.65)
  - Ends in 6¢ or 7¢: round DOWN (e.g., \$42.66 → \$42.65)
  - Ends in 8¢ or 9¢: round UP (e.g., \$42.68 → \$42.70)
  - Ends in 0¢ or 5¢: no change
- **Applies to cash transactions only;** checks, ACH, and card payments are always exact



## Can Local Governments Round? (Current Law)

- **No!!** Local governments currently have no authority to round cash tax payments
- The warrant requires exact collection; the governing board cannot unilaterally adopt a rounding policy without statutory authority
- Until legislation is enacted (**A10207 / S9541**), collecting officers should:
  - Encourage electronic payments, checks, and credit/debit card payments
  - Require exact cash amounts, or accept cash by appointment only (governing board resolution)
  - Not round up or down under any circumstances



## Pending Legislation

- **S8580 / A9274** (Private sector only; the “New Yorkers for Common Cents Act”):
  - Amends the General Business Law; requires merchants to round cash transactions to nearest 5¢
  - Does NOT apply to local governments or tax collection
  - Only applies to cash payments



## Pending Legislation

- **A10207 / S9541** (Local government tax collection):
  - Introduced February 12, 2026 (Assembly); March 23, 2026 (Senate)
  - Would require collecting officers to accept tax payments rounded to the nearest 5¢ when taxes are paid with cash
  - Passed Assembly Real Property Taxation Committee 9-0 (March 24, 2026); pending Assembly Ways and Means; Senate Local Government Committee
  - What about authority to require exact change?



## Guidance for Collecting Officers

- **DO:** Encourage electronic payments, checks, and credit/debit cards
- **DO:** Require exact cash amounts until the legislature grants rounding authority
- **DO:** Refund all overpayments, even minimal ones, to the taxpayer
- **DO:** Monitor pending legislation for local government rounding authority
- **DON'T:** Round up or down; no current authority exists for local government tax collection
- **DON'T:** Retain overpayments or accept underpayments without a partial payment resolution
- **DON'T:** Refuse to accept pennies; they remain legal tender





## Public Records

### Vexatious FOIL Requests

## Vexatious FOIL Requests

- A label applied to a records request — or a pattern of requests — that is made without genuine intent to obtain information for a legitimate public interest purpose, but rather to harass, disrupt, or annoy a government agency. The term describes repeated filings of frivolous requests intended to annoy the responding agency.
- (“Beast or Burden: Nuisance, vexatious, or burdensome public records requests” National Freedom of Information Coalition (NFOIC) 2018 [www.nfoic.org](http://www.nfoic.org))



## Vexatious FOIL Requests

Vexatious FOIL Requests are **NOT** expressly addressed in New York State Law.

(POL Article 6; 21 NYCRR PART 1401)

The **NYS Court of Appeals** has noted that:

“FOIL does **not** require that the party requesting records make any showing of **need, good faith or legitimate purpose** \*\*\* Full disclosure by public agencies is, under FOIL, a public right and in the public interest, irrespective of the status or need of the person making the request”. (Farbman v. New York City Health and Hospitals Corporation, 62 NY 2d 75, 80 [1984]).



## FOIL – Purpose

- **FOIL was designed to provide maximum public access to government records** (Capital Newspapers Div. of Hearst Corp. v. Burns, 67 N.Y.2d 562 [1986]).
- **FOIL promotes public accountability through transparency in government operations** (see POL § 84; Fink v. Lefkowitz, 47 NY2d 567, 470 [1979]).
- **The statute's primary policy objective is to ensure the public's right to understand governmental decision-making, recognizing that official secrecy undermines democratic governance** (Madeiras v. New York State Educ. Dept., 30 NY3d 67[2017]).



## FOIL – Government Responsibility

### The NYS Court of Appeals Noted:

- “Meeting the public’s legitimate right of access to information concerning government is fulfillment of a governmental obligation, not the gift of, or waste of, public funds” (Matter of Doolan v. Board of Coop. Educ. Servs., 2d Supervisory Dist. of Suffolk County, 48 N.Y.2d 341 [1979] ).

### The Committee on Open Government Noted:

- “[g]iving effect to the Freedom of Information Law is not an extra task that government officials are required to carry out; rather, doing so is part of [their] governmental duty” (FOIL-AO-18748 [2011]).



## FOIL – Record Defined

### Records are Broadly Defined:

"Record" means **any information** kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in **any physical form** whatsoever (POL, §86 (4)) –

Examples -

- |                  |            |
|------------------|------------|
| • Texts          | Recordings |
| • Papers         | Notes      |
| • Computer Files | Maps       |
| • Emails         | Books      |



## FOIL – Agency Obligations

- **Reasonable and Good Faith Efforts Required** (Rattley v. New York City Police Dept., 96 N.Y.2d 873 (2001))
- **Case-specific determination of what constitutes good faith reasonable efforts** (Wagner v New York City Dept. of Educ., 45 N.Y.3d 93 (2025))



## FOIL – Diligent Search Certification

- **Certification requirement "is triggered when, in lieu of granting a FOIL request, the agency finds that it either does not possess the item requested or is unable to locate it after a diligent search."** (Felici v. Nassau County Office of Consumer Affairs, 217 A.D.3d 765 (2d Dept 2023); (Public Officers Law § 89(3)(a))
- **Certification requirement does not apply when agency claims an exemption** (Matter of Abdur-Rashid v. New York City Police Department, 31 NY3d 217 (2018))
- **Mere availability of government records on a public website is insufficient to satisfy a request under FOIL for reproduction of such materials.** (Goldstein v. Incorporated Village of Mamaroneck, 221 A.D.3d 111 (2d Dept 2023))



## FOIL – Diligent Search Certification

"The statute does not specify the manner in which an agency must certify that documents cannot be located. Neither a detailed description of the search nor a personal statement from the person who actually conducted the search is required." (Jackson v. Albany County District Attorney's Office, 176 A.D.3d 1420 (3d Dept 2019); (Rattley v New York City Police Dept., 96 NY2d 873, 875 (2001))

An agency generally satisfies the certification requirement by "averring that all responsive documents had been disclosed and that it had conducted a diligent search for the documents it could not locate" (Rattley v. New York City Police Dept., 96 N.Y.2d 873 (2001))



## FOIL – Agency Obligations

- **Generally, not required to provide a detailed description of the search but must certify that it was a diligent search** (Rattley v. New York City Police Dept., 96 N.Y.2d 873 (2001); Stone v Montgomery County Bd. of Elections, 234 AD3d 1075, 1076 (3d Dept 2025)).
- **Town “might find it beneficial to describe its efforts in its correspondence with the requestor”.** (Wagner v. New York City Department of Education, 45 N.Y.3d 93 (2025))



## FOIL - Deadlines

**5 Business Days** – RAO Acknowledges FOIL in Writing

**20 Business Days** – Additional Time to respond if needed

**Date Certain** – Reasonable Date Response Provided

**30 Calendar Days** – FOIL Requester may Appeal Denial

**10 Business Days** – Municipal Appeals Officer responds to Appeal

**4 Months from Final Determination** – FOIL requester may challenge denial in court



## FOIL – Fees

- **Public Officers Law §87(1)(b); 21 NYCRR 1401.8**
- Up to 25¢ for up to 9x14 photocopy (no fee if same records were compiled in the last 6 months and available electronically) or
- **Charge the “actual cost of reproduction”**
  - If the time spent copying records takes more than 2 hours, RAO may charge an amount equal to the hourly salary of the lowest paid employee with the skills to prepare the copy (must notify requestor first)
  - Actual cost of storage device or media
  - Actual cost of engaging an outside professional agency (must notify requestor first)
  - Unpaid Fees may be recovered in Small Claims Court (FOIL AO 19683)



## FOIL Fees

Cannot charge for time spent searching, reviewing or administrative costs (Time Warner Cable News NY1 v. New York City Police Dept., 53 Misc.3d 657 (2016)).

Cannot charge fees simply because a request is voluminous or would require substantial effort to fulfill (Goldstein v. Incorporated Village of Mamaroneck, 221 A.D.3d 111 (2023)).



## FOIL – Agency Response

- **Records are Presumed to be Publicly Accessible Under FOIL:**
- **Access Presumption** - All records are available, except to the extent that a record or portions fall within one or more exceptions found in POL §87(2) (FOIL-AO-17123)
- **Within Statutory Timeframes an Agency Must Respond to a FOIL Request in Writing by Acknowledging the FOIL Request and:**
  - Disclose Requested Records in Whole or in Part
  - Indicating that More Time Will be Needed to locate and review requested records and provide a response/delivery date
  - Deny records request and provide a specific exemption to disclosure, or
  - Certify that the agency does not possess the requested document and that it could not be located after a diligent search
  - POL §89(3)
- **Do Not Ignore a FOIL Request**
  - Failure to respond in writing in a timely manner can be considered a Constructive Denial potentially subjecting agency to appeals and attorney fees. (LTTR Home Care, LLC v. City of Mount Vernon, 179 A.D.3d 798 (2020))



## FOIL – Agency Response

- **Access Presumption** - All records are available, except to the extent that a record or portions fall within one or more exceptions (FOIL-AO-17123; POL §87(2) )
- **Exemptions** - "are to be narrowly interpreted so that the public is granted maximum access to the records of government" (Matter of Data Tree, LLC v. Romaine, 9 N.Y.3d 454 (2007))
- **Blanket exemptions** for categories of documents are inimical to FOIL's policy of open government. Instead, to invoke any of the exemptions in section 87(2), the agency must articulate a particularized and specific justification for withholding each requested document (Gould v. New York City Police Dept., 89 N.Y.2d 267 (1996)).
- **Document-by-Document explanation** for denial likely unnecessary, (DJL Restaurant Corp. v. Department of Buildings, 273 AD2d 167, (1st Dept 2000)).
- Affidavits merely repeating the statutory phrasing of an exemption are insufficient (DJL Restaurant Corp. v. Department of Buildings, 273 AD2d 167, (1st Dept 2000)).
- **Natural and Obvious Meaning** - Courts must give an exemption its "natural and obvious meaning where such interpretation is consistent with the legislative intent and with the general purpose and manifest policy underlying FOIL" (Matter of Appellate Advocates v. New York State Dept. of Corr. & Community Supervision, 40 N.Y.3d 547 (2023))



## FOIL – Exemptions

- **Statutory Exemptions Generally Found in POL §87**
- **Common Exemptions**
  - **Unwarranted Invasion of Personal Privacy**
    - e.g. Personal Cell Phone Numbers
  - **Inter-agency or Intra-agency**
- Materials NOT including:**
  1. Statistical or factual tabulations of data
  2. Instructions to the staff that affect the public
  3. Final agency policy or determinations
  4. External audits
- **Exemptions in Other Statutes**
  - e.g. Social Security Numbers (POL § 96-a)



## FOIL- Common Law Exemptions

- **Voluminous & Burdensome Requests**
- Public Officers Law § 89(3)(a) explicitly state that an “agency shall **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 agency lacks sufficient staffing or on any other basis if the agency may engage an outside professional service to provide copying, programming or other services required to provide the copy, the costs of which the agency may recover”



## FOIL – Vexatious Requests

- **Voluminous & Burdensome Requests**
- **Paper Records** - The Committee on Open Government has opined that a FOIL request may be denied where it generates “millions of paper records, which, if granted, would bring in its wake an enormous administrative burden that would interfere with the day-to-day operations of an already heavily burdened bureaucracy” (FOIL-AO-16560 citing Fisher & Fisher v. Davison, Supreme Court, New York County, October 6, 1988).
- **Electronic Records** - Court of Appeals established that agencies must retrieve electronic records unless doing so requires “unreasonable efforts” and “what constitutes reasonable effort is necessarily a case-specific determination” . (Wagner v. New York City Department of Education, 45 N.Y.3d 93 (2025))



## FOIL- Common Law Exemptions

### Request Does Not Reasonably Describe Records

•**Reasonable Description Requirement** - FOIL Request must reasonably describe records (Public Officers Law, §89 (3))

•**Standard to Determine if Request Reasonably Describes Records**

–Agency Understands the Records Requested

–Agency Knows where to Find the Requested Record

–Volume of Records not necessarily a factor

–Whether responding to the request is an unreasonable burden on the agency is a separate question (Wagner v. New York City Department of Education, 45 N.Y.3d 93 (2025))

–**Purpose** - Ensures that the responding agency has the ability to locate the records requested (Wagner v. New York City Department of Education, 45 N.Y.3d 93 (2025); Konigsberg v. Coughlin, 68 N.Y.2d 245 (1988))

–**RAO is obligated to work with requester to help craft request based on agency records** (21 NYCRR PART 1401.2)

–**Agency has Burden to Demonstrate the Request is not Reasonably Described** (Konigsberg v. Coughlin, 68 N.Y.2d 245 (1988)) 

## FOIL- Common Law Exemptions

### •Unreasonable Burden

•**An agency must make a reasonable effort to comply with FOIL Request** (Wagner v. New York City Department of Education, 45 N.Y.3d 93 (2025); Konigsberg v. Coughlin, 68 N.Y.2d 245 (1988))

•**Reasonable Effort is Fact Specific and should be Evaluated on a Case-by-Case Basis** (Wagner v. New York City Department of Education, 45 N.Y.3d 93 (2025))

•**Agency has Burden to Demonstrate that it cannot retrieve requested records with reasonable effort** (Konigsberg v. Coughlin, 68 N.Y.2d 245 (1988))

•**Sheer Volume of Records located is not only criteria for unreasonable burden** (Wagner v. New York City Department of Education, 45 N.Y.3d 93 (2025); Legal Aid Society v. Records Access Officer, 238 A.D.3d 17 (1<sup>st</sup> Dept 2025); New York Civ. Liberties Union, 228 AD3d at 1167)



## FOIL- Common Law Exemptions

### Unreasonable Burden

“IF you Can You Must” Standard coined by COOG (FOIL-AO-f19150)

•Statutory language prohibits denials based on volume, burdensome locating or reviewing, burdensome copying, insufficient staffing, or "any other basis" when outside services are available (POL § 89).

•Agency should take reasonable steps to determine whether it can reasonably respond to the FOIL request (Bhambhani v Westchester County Dist. Attorney's Off., 87 Misc 3d 1244(A) (Sup Ct Westchester Co 2025))

- Examples include -
- Engage Outside Professional Service with nondisclosure agreements
- Reconsider staffing
- Reallocate resources
- Train additional employees
- Upgrade software and computer systems



## FOIL- Common Law Exemptions

### Unreasonable Burden - Paper vs Electronic Records

- **Paper Records** - Agency officials are not required to search through the haystack for a needle. In short, agency staff are not required to engage in herculean or unreasonable efforts in locating records. The volume of records, staffing, indexing and record management practice are factors to consider when searching for paper records. (FOIL-AO-18949; FOIL-AO-16560)
- **Electronic Records** – Agency officials must “retrieve or extract a record or data maintained in a computer system unless doing so would require the agency to undertake unreasonable efforts (Wagner v. New York City Department of Education, 45 N.Y.3d 93 (2025); POL §89; Data Tree, LLC v. Romaine, 9 N.Y.3d 454 (2007)). In Short COOG opinions describe this as “if you an you must” (FOIL-AO-f19150);



## FOIL –Exemptions

- Identify the specific statutory exception being invoked (e.g., a particular paragraph of POL §87(2))
- Articulate a particularized and specific justification — not a generic or categorical one — explaining why the exception applies to those specific records
- Review the records in their entirety, redacting only exempt portions and disclosing the rest
- Refrain from relying on speculation about potential harm — the harm must be real and demonstrable
- Construe any exception narrowly, consistent with the law's strong presumption of disclosure



## FOIL –Duplicate Requests

- **Duplicative Request Doctrine**
- Agencies may deny duplicative or **substantially similar** FOIL requests from the **same person**.
- Garcia v. Div. of State Police, 302 A.D.2d 755 (3rd Dept. 2003); FOIL-AO-19829



## **FOIL – Vexatious Requests Response Tools**

- **Work with Requester to Better Describe Records Request** (21 NYCRR PART 1401.2 (b)(3))
- **Estimate and Require Fee Payment Upfront** (FOIL-AO-13878)
- **Delay release until unpaid prior FOIL Fees Paid** (Matter of Fenstermaker v Edgemont Union Free School Dist., 48 AD3d 564 [2d Dept 2008])
- **Create a Release Schedule** (Provide Records in Timed Batches) (Legal Aid Society v. Records Access Officer, 238 A.D.3d 17 (1<sup>st</sup> Dept 2025))
- **Consider Denying Duplicative Requests if Requests are Substantially Similar From Same FOILER** (Matter of Garcia v. Division of State Police, 302 AD2d 755, 756 [3d Dept 2003])



## **Public Records and FOIL – Setting Yourself up for Success**

### **Review**

#### **Statutes:**

Freedom of Information Law (Public Officers Law, Article 6)

#### **Interpretations:**

Agency Opinions and Guidance

Cases

#### **Municipal FOIL Policy**

### **Training**

**Invest in records management software and equipment**

**Digitize & Index Paper Records**



## FOIL – Setting Yourself up for Success

- **Create a Check List or Adaptable FOIL Response Form**
  - Ensures all factors considered and Responses are Legally Compliant
  - See Town of Huntington Example  
[https://www.huntingtonny.gov/filestorage/13753/13773/Foil\\_Form\\_11-17-2021.pdf](https://www.huntingtonny.gov/filestorage/13753/13773/Foil_Form_11-17-2021.pdf)
  - Internally Document Steps taken to Search for Requested Records and to work with FOIL requester
- **Committee on Open Government’s Denial Guidance:**
  - Denials must
    - Written
    - Provide the name and address of the appeals officer and
    - Note appeals are due within thirty (30) calendar days of the denial



## NYS FOIL –AI Bots Requests

Frank Curry is an AI Bot that sends FOIL Requests for users through a service called FOIA Buddy (<https://foiabuddy.com/>)  
COOG has advised that:

- A FOIL request does not require providing proof of identity and may be made anonymously;
- FOIL request need not be submitted by a human being
- FOIL request is not required to be filed by a municipal resident  
(FOIL-AO-19874)
- Records accessible under FOIL should be made equally available to any person, regardless of one's status, interest or the intended use of the records  
(FOIL-AO-11992)





## **FOIL Case Law Update**

### **Email Notification Lists**

### **Russell v. Town of Mount Pleasant**

- **Background:** A FOIL request sought to compel the Town of Mount Pleasant to disclose its entire resident e-notification list
- The lower court ruled in favor of disclosure; NYAOT argued this would be deeply harmful to the residents these programs exist to serve
- **Decision:** On February 19, 2026, the New York Court of Appeals reversed, holding that personal email addresses voluntarily submitted by residents to receive municipal e-notification updates are **exempt from FOIL disclosure**
- NYAOT and NYCOM filed a joint amicus brief urging the Court to protect resident privacy in municipal notification systems



## The Court's Holding

- Residents who share email addresses with their municipality for the **limited purpose** of receiving emergency alerts, meeting notices, and service updates have a **reasonable expectation of privacy** in that information
- Forced disclosure would expose residents to:
  - Spam and targeted phishing attacks
  - Spear-phishing schemes using a town's own notification list to craft convincing fraudulent emails impersonating local government
- Disclosure would **chill public participation** in governmental notification programs; residents who could not trust their contact information would simply opt out
- The decision is consistent with FOIL's privacy exemptions and New York State law



## Why This Matters for Local Governments

- **Protects your notification programs:** Towns may continue operating resident e-notification lists without fear that compelled FOIL disclosure will undermine participation
- **Affirms the privacy exemption:** FOIL's privacy protections apply to contact information submitted for a specific governmental purpose; purpose and context matter
- **Preserves public trust:** Residents can share contact information with confidence it will be used only for the purpose for which it was provided
- **Cybersecurity:** The Court recognized real-world harm; municipal notification lists are a prime target for fraud and impersonation schemes



## Practical Guidance for Town Clerks

- **DO:** Cite *Russell v. Town of Mount Pleasant* (Court of Appeals, Feb. 19, 2026) when responding to FOIL requests seeking e-notification lists
- **DO:** Clearly state the limited purpose when collecting resident email addresses (e.g., emergency alerts, meeting notices, service updates)
- **DO:** Consult your municipal attorney before disclosing any portion of a notification list
- **DON'T:** Use notification lists for any purpose beyond what was stated when the information was collected
- **DON'T:** Assume all contact databases are protected; the exemption is tied to the specific limited purpose of the collection



## All-Electric Buildings Act

### Current State

## All-Electric Buildings Act

- The All-Electric Buildings Act prohibits the installation of natural gas, propane, heating oil, and other fossil fuel equipment in most **new buildings under seven stories**
- The prohibition applies to new construction; it does not require existing buildings to remove existing fuel equipment



## All-Electric Buildings Act

- The law has significant implications for local governments as building permit authorities and as owners of municipal facilities; it also affects residents and developers in your communities who plan new construction
- The law was originally set to take effect **January 1, 2026** and would have applied to new buildings constructed on or after that date



## All-Electric Buildings Act

- On **November 12, 2025**, the State agreed to delay implementation of the All-Electric Buildings Act while litigation is pending at the federal level
- The State effectuated a stay on the January 1, 2026 effective date; the law is **not currently in effect** and will not be enforced while the stay is in place



## All-Electric Buildings Act

- The stay was prompted by federal litigation challenging the law; the outcome of that litigation will determine when and whether implementation proceeds
- Argued in the Second Circuit on January 30, 2026 – decision forthcoming
- **Practical guidance for municipalities:**
  - Do not enforce the All-Electric Buildings Act prohibition in your building permit process while the stay is in effect
  - Monitor developments in the federal litigation and any State guidance on when the stay may be lifted
  - New construction applicants may ask about compliance obligations; the current answer is that the law is stayed and the prohibition is not operative





## Cannabis

### Current State

## Cannabis

- Currently 631 adult-use cannabis dispensaries in NY (compared to 336 in March 2025!)
- NYS preempts municipalities from regulating cannabis operations and licensure
- Exception: Local laws on “time, place, and manner” only
- BUT: Must not make operations “unreasonably impracticable”
- Defined and enforced by the Cannabis Control Board (CCB)
- Key takeaway:  
Local zoning authority exists yet is narrow, conditional, and actively policed by the State



## Cannabis

- What you can regulate:
  - Hours of operation (within State parameters)
  - Parking (consistent with other retail)
  - Traffic and pedestrian control
  - Noise and odor (Public Health Law consistency)
  - Building appearance only in historic districts
  - Up to 500 ft from “public youth facilities” (strictly defined)
  - Key takeaway: If it’s not on this list → it is likely preempted



## Cannabis

Hours of operation for retail shops:

- Can't operate between 2:00 a.m. to 8:00 a.m., UNLESS
  - Express written permission given by municipality
  - OR the municipality passes a local law, authorizing operation during those hours; and
- Can't have local law restricting operating hours to less than 70 hours a week, unless licensee agrees



## Cannabis

Hours of operation for on-site consumption establishments

- Can't have a local law allowing on-site to operate between 4:00 a.m. and 8:00 a.m
- Can't have local law limiting hours of operation to less than 70 hours a week unless licensee



## Cannabis

Distance:

- On the same road and within **200 feet** of **house of worship** entrance;
- On the same road and within **500 feet** of **school** entrance; and
- On the same road and within **500 feet** of structure or grounds of **public youth facility** if locality adopted local law



## Cannabis

- What you **cannot** regulate based on 2025 Cannabis Control Board Opinions:
  - Expand distance buffers (schools, houses of worship, residences)
  - Restrict cannabis to limited zoning districts or overlay zones
  - Require special use permits, municipal approval, or extra review layers
  - Impose cannabis-specific fees or licensing requirements
  - Regulate security, signage, or operations beyond State rules
  - Enact moratoria on cannabis permits
  - Regulate delivery operations (entirely State-controlled)



## Practical Implications for Boards

- Zoning tools are constrained by the CCB opinions and traditional land use approaches often will not apply
- Attempts to “slow down” or “shape” cannabis rollout are being invalidated statewide
- The CCB is actively reviewing and overruling local laws
- Risk of:
  - Litigation (Article 78s already filed)
  - Invalid local laws
  - Loss of local control credibility
- Bottom line: Municipalities must shift from control-oriented zoning → to compliance-focused regulation within a narrow State framework





## Public Officers

### Resignations

## Resignations

- **Town Officers** (elected & appointed) Typically Resign to Town Clerk (POL, §31 (1)[g])
- **Elected Town Clerk** Typically Resigns to Secretary of State (POL, §31 (1)[k])
- **Village Officials** Typically Resign to the Village Clerk (POL §31 (1)[h])
- **Village Clerk** Typically Resigns to the Mayor
- **Town & Village Justices** Typically Resign to Municipal Clerk and Office of Court Administration (POL, §31 (1) [d][g][h])



## Resignations

### Resignations Must Be:

- In Writing
- Addressed to the Municipal Official within whom the Resignation is Filed
- Filed in the Municipal Official's Office or Delivered to the Official's Place of Business
- (Public Officers Law, §31(2)(3))



## Resignations

- **Effective Date Options**
- **Immediately Upon Receipt** if no effective date is specified in such resignation
- **Officials** may select an Effective Date up to **30 days** from the date the letter of resignation is filed.
- **Justices** may select an Effective Date up to **90 days** from the date the letter of resignation is filed.
- Resignations become Effective on the 30<sup>th</sup> (Officials) or 90<sup>th</sup> (Justices) day if a Resignation Date Selected Beyond Statutory Timeframe.
- (Public Officers Law, §31 (2))



## Resignations

- **Self-Executing**
- Resignations do not need to be accepted by governing board or chief executive officer
- (1976 N.Y. Op. Atty. Gen. No. 113)



## Resignations

- **Substantial Compliance** with the requirements of Public Officers Law, §31 will be sufficient to effectuate a valid resignation.
- Official Receiving Resignation Determines Compliance.
- (Op. Atty Gen (I) No. 96-26 citing Brescia v Mugridge, 52 Misc 2d 859, 863 (Sup Ct Suffolk Co), aff'd, 29 AD2d 632 (2d Dept [1967]); Popp v. Town of Cornwall, 244 A.D.2d 492 (2d Dept [1997]); Shadur v. Town of Pawling, 116 N.Y.S.3d 591 (2d Dept [2020])).



## Resignations

- **Withdrawing or Amending Resignation Letters**
- The Official with whom the resignation is filed may allow the individual to withdraw the letter of resignation but is not obligated to do so. (1976 Op. Atty. Gen. Inf. No. 113)
- Discretionary Authority Must be Exercised in Reasonable Manner (POL §31(4); Wright v. Town Bd. of Town of Ticonderoga, 160 A.D.2d 1156 (3rd Dept. 1990).
- Each case will depend upon the facts but courts have found that it is proper to allow the individual to withdraw a resignation where:
  - No actions have been taken on the resignation
  - Withdrawal Request is Timely Made
  - Intent to Withdraw is Clear



## Resignations

- Immediately Notify County Clerk of Vacancies in Town Office (Town Law, §30 (4))
- Immediately Notify State Board of Elections if Resignation from Elected Office (POL, §31 (5))
- Immediately Notify the Appointing Authority
- By February 1<sup>st</sup> Notify the County Board of Elections of any positions that will be on the Ballot at the General Election (Election Law, §4-106)



## Stay in Touch with NYAOT



- **Social Media**

- Website: [www.nytowns.org](http://www.nytowns.org)
- NYAOT Connect available on Apple and Android. Informational and Networking App for free through Google Play or App Store
- Link To NYAOT Social Media <https://linktr.ee/nyaot>