AGENDA ITEM: C.

DATE: 8/24/20

RIGHT TO KNOW POLICY

**Chapter XXX**
RIGHT TO KNOW REQUEST POLICY

**§ X-1. Purpose.**

A. The purpose of this policy is to create a standard method of processing records requests under the Right to Know Law (RSA chapter 91-A). It is the policy of the Town of the Rye ("Town") to facilitate public access to existing governmental records, as governmental records are defined under RSA chapter 91-A and where such access is required under RSA chapter 91-A.

B. For the purpose of this Policy, requests for public records shall be interpreted as being made pursuant to RSA chapter 91-A, regardless of whether the request is captioned as a "91-A Request," "Right to Know Request," "Freedom of Information Act Request," or other nomenclature. Such a request shall be referred to herein as "Right to Know Request."

C. This Policy shall not apply to subpoenas or discovery served in accordance with any applicable rules of procedure established by a State or Federal Court or obligations to disclose records arising out of other bodies of law, including, but not limited to, evidence production associated with criminal proceedings or requests for motor vehicle accident reports pursuant to RSA 264:25.

**§ X-2. Procedure.**

A. The Town Administrator shall serve as the official of the Town responsible for coordinating responses to Right to Know Requests.

B. Individuals wishing to make a Right to Know Request are encouraged to submit their request on the Right to Know Request Form available on the Town's website, a copy of which is also appended to this Policy. Individuals making a Right to Know Request via email without using the Town's Right to Know Request Form will be directed to this Policy and the Right to Know Request Form and shall be requested to submit the Right to Know Request on the Town's Form.

C. Individuals are encouraged to request specific records using as specific a description as possible and with reference to the date(s) that the record(s) may have been created.

D. Individuals making a Right to Know Request are encouraged to submit all Right to Know Requests to the Town Administrator. Submitting a Right to Know Request to the Town's Administrative Offices helps to ensure a complete response and facilitates expedient completion of the Right to Know Request.

E. If an individual employee receives a Right to Know Request, regardless of the form used, that employee shall forward that Right to Know Request to their supervisor, who shall then forward the Right to Know Request to the Town Administrator. All such transmittals shall be made on the same day that the Right to Know Request is received.

F. The Town Administrator will review the Right to Know Request and will provide individuals making a Right to Know Request with a response that adheres to RSA 91-A:4. That response shall be provided within five (5) business days of the Town's receipt of the Right to Know Request. Requests that are received after 5:00 on a business day or on a day that the Town Offices are closed shall be deemed received as of the following business day. For the purposes of this Policy, "business day" includes those days that the Town's Administrative Offices are open to the general public and shall not include weekends, holidays, or other days that the Administrative Offices are not open.

G. The initial response from the Town Administrator will:

1. to the extent that the record(s) is (are) immediately available for public inspection and copying, make that document available for inspection and copying;
2. to the extent that the record(s) is (are) not immediately available for inspection and copying, identify a reasonable period of time by which that record is anticipated to be made available;
3. to the extent that the Town cannot determine whether all or part of a record(s) is (are) subject to disclosure under RSA chapter 91-A, identify a reasonable period of time by which the Town will determine whether access for inspection or copying of all or part of the records sought will be granted or denied;
4. to the extent that a record(s) is (are) not subject to disclosure pursuant under RSA chapter 91-A, deny the request.

Response times provided in an initial response are estimated dates for production, and the Town reserves the right to update an estimated date for response as the needs of the Town require.

H. In addition to any other fees imposed by this Policy, Right to Know Requests that will produce more than 250 electronic communications shall be subject to an additional fee of $1.00 for every communication over the initial 250 electronic communications.

1. This fee shall be assessed regardless of whether the records are delivered in hard copy or electronically.
2. Attachments to electronic communications shall be considered part of a single communication and e-mails and responses under a single subject line shall be considered a single communication.
3. Text or chat message threads regarding the same topic shall be considered a single communication unless exceeding 50 individual messages at which point each additional group of 50 messages shall be considered another single message.
4. Multiple requests from any person or entity within a 30-day time period shall be considered one request for the purposes of this Paragraph.

5. In providing an initial response, the Town Administrator shall seek to provide an initial estimate of the fee to be imposed by this Paragraph and shall inform the individual making the Right to Know Request that such fee may be reduced or avoided by amending the Right to Know Request.
6. The Town will not consider a Right to Know Request as being received until this fee is paid or until the Right to Know Request is modified to reduce the amount of responsive electronic communications to under the 250-communication threshold.

I. In responding to a Right to Know Request, the Town shall only provide access for inspection or copying of government records, as that term is defined by RSA 91-A, existing as of the date that the Right to Know Request is received. The Town reserves the right to decline to: (1) respond to general inquiries that do not seek a public record, (2) compile, cross-reference, or assemble information into a form in which it is not already kept or already reported, or (3) provide access to government records that may have been created after the date of that the Right to Know Request is received or responded to. Electronic records will be provided in standard or common file formats.

J. Records disclosed under this Policy will be made available for inspection and copying. Inspections shall be allowed at the Town Administrative Offices or such other offices as may be designated by the Town Administrator, which shall be conducted during regular business hours by appointment.

K. Government records belong to the public, and, to ensure that such records remain available to the public and free from damage, only Town staff shall be allowed to copy responsive records. If a copy of a record is sought, the Town shall assess a copy fee of $1.00 per 8.5" by 11" page and $1.50 per 11" by 17" page. Said copy charge shall be assessed on every page for which a copy is requested. The copy charge shall be paid prior to the Town making any such copies. Individuals will not be permitted to feed any record into a scanner, printer, copy machine or any other apparatus.

L. The Town will not transmit records via electronic mail nor will the Town upload records to any electronic portal or sharefile site (i.e. Dropbox). If electronic records are sought, individuals making a Right to Know Request shall provide a factory-sealed USB storage drive. In the alternative such a factory-sealed USB storage drive may be purchased from the Town at the Town's cost. Responsive records will be uploaded to said factory-sealed USB storage drive and shall be made available for retrieval at the Town's Administrative Offices.

**§ X-3. Grievances.**

A. An individual making a Right to Know Request that is aggrieved by the Town's response to a Right to Know Request, may grieve that decision to the Town Administrator.

B. Grievances filed in accordance with this Section __-3 shall submit a written grievance to the Town Administrator within ten (10) days of the Town's response, identifying, with specificity, the reasons for why the aggrieved individual believes that the Town's response is contrary to this policy or RSA chapter 91-A.

C. Within ten (10) days of the receipt of a timely grievance, the Town Administrator shall either schedule a hearing on the grievance, which shall be scheduled no later than twenty (20) days of the receipt of the grievance, or shall issue a written decision on the grievance.

**§ X-4. Waiver.**

A. The Town shall waive any per electronic communication charge provided for in Section __-2 (H) when the person requesting the records is an indigent individual as established by the federal poverty line or if the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requestor, except media requestors. Media requestors are organizations or individuals who publish information in accepted digital, print, or broadcast formats and to standards generally recognized by professional news organizations that do not serve primarily as a platform to promote the interest and/or opinions of a special interest group, government, individual or cause.

B. Request for waivers shall be submitted in writing and shall identify the individual's eligibility for a waiver under Section __-4(A). The Town may request such additional information as may be necessary to confirm an individual's eligibility for a waiver.

**§ X-5. Reservation.**

A. Nothing in this Policy shall be construed as creating or establishing a private cause of action against the Town.

B. This Policy shall not be interpreted to expand any rights existing under RSA 91-A and nothing contained herein shall be construed to require disclosure of all or part of any record where that disclosure is not permitted or required under RSA 91-A:4 or :5.

C. The Town reserves all rights that the Town may have at law or at equity related to any Right to Know Requests that are submitted in bad faith or are frivolous, unjust, vexatious, wanton, or oppressive.