

Town of Stockbridge

Public Records Access Guidelines

I. Policy.

The *Massachusetts Public Records Law*, *M.G.L. c.66* and *M.G.L. c.4*, §7, clause Twenty-sixth, provides that a municipality must, within 10 business days, respond to a request for records by providing access to or a copy of such records, or explaining any delay or denial. These Guidelines are intended to assist members of the public seeking access to such public records in the custody of the Town of Stockbridge.

II. Definition.

The following terms shall have the meanings indicated:

- A. Business day. Monday through Friday. Business day does not include Saturdays, Sundays, legal holidays, or other weekdays where a custodian's office is closed unexpectedly.
- B. Commercial Purpose. The sale or resale of any portion of the public record or the use of information from the public record to advance the requester's strategic business interests in a manner that the requester can reasonably expect to make a profit including in addition to the foregoing, obtaining names and addresses from the public record for the purpose of solicitation. It does not include gathering or reporting news or gathering information to promote citizen oversight or further the understanding of the operation or activities of government or for academic, scientific, journalistic, or public research or education.
- C. Custodian. Any governmental entity that makes or receives public records.
- D. Public Record. All books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by a governmental entity unless such materials or data fall within one or more of the exemptions found within *M.G.L. c.4*, §7, clause Twenty-sixth or other legally applicable privileges.
- E. Record Access Officer ("RAO"). The employee designated within a governmental entity to perform duties described in 950 CMR 32.00 including coordinating a response to requests for access to public records, assisting individuals seeking public records in identifying the records requested, and preparing guidelines that enable requesters to make informed requests regarding the availability of such public records electronically or otherwise.
- F. Redact. To delete, or otherwise expurgate that part of a public record that is exempt from disclosure under *M.G.L. c.4*, §7, clause Twenty-sixth or other legally applicable privileges from non-exempt material.
- G. Search Time. The time used to review records to determine what portions are subject to redaction or withholding under *M.G.L. c.4*, §7, clause Twenty-sixth or other

legally applicable privileges. Segregation time shall not include time expended to review record for accuracy and correct errors.

H. Withhold. To hold back from disclosure a record under *M.G. L. c.4, §7*, clause Twenty-sixth or other legally applicable privileges.

III. General Information.

A. Business Hours.

The regular business hours of Town Hall are 9:00 A.M. – 4:00 P.M.

B. Records Access Officers. The following Records Access Officers (“RAO”) have been designated:

i. **Town Clerk**

RAO: Teresa Iemolini

Address: Town Hall, 50 Main Street, PO Box 417, Stockbridge, MA 01262

Phone: 413-298-4170

Email: clerk@townofstockbridge.com

Fax: 413-298-4344 ext. 251

ii. **Town Collector**

RAO: Nancy Socha

Address: Town Hall, 50 Main Street, PO Box 417, Stockbridge, MA 01262

Phone: 413-298-4170 ext. 253

Email: collector@townofstockbridge.com

Fax: 413-298-4344

iii. **Assessor**

RAO: Michael Blay

Address: Town Hall, 50 Main Street, PO Box 417, Stockbridge, MA 01262

Phone: 413-298-4170 ext. 254

Email: assessors@townofstockbridge.com

Fax:

iv. **Accountant**

RAO: Elaine Markham

Address: Town Hall, 50 Main Street, PO Box 417, Stockbridge, MA 01262

Phone: 413-298-4170 ext. 255

Email: accountant@townofstockbridge.com

Fax: 413-298-4344

v. **Treasurer**

RAO: Karen Williams

Address: Town Hall, 50 Main Street, PO Box 417, Stockbridge, MA 01262

Phone: 413-298-4170 ext. 252

Email: treasurer@townofstockbridge.com

Fax: 413-298-4344

vi. **Board of Selectmen / Town Administrator**

RAO: Danielle Fillio

Address: Town Hall, 50 Main Street, PO Box 417, Stockbridge, MA 01262

Phone: 413-298-4170 ext. 250

Email: Danielle@townofstockbridge.com

Fax: 413-298-4344

vii. **Building Department**

RAO: Ned Baldwin

Address: Town Hall, 50 Main Street, PO Box 417, Stockbridge, MA 01262

Phone: 413-298-4170 ext. 257

Email: buildinginspector@townofstockbridge.com

Fax:

viii. **Police Department**

RAO: Kim Shaw

Address: Town Hall, 50 Main Street, PO Box 417, Stockbridge, MA 01262

Phone: 413-298-4170 x 201

Email: kshaw@townofstockbridge.com

Fax: 413-298-4345

ix. **Fire Department**

RAO: Earnest J. Cardillo

Address:

Phone: 413-298-4866

Email: firechief@townofstockbridge.com

Fax: 413-298-5578

- C. Background Information. General information about the *Public Records Law* and public records requests is found in the Secretary of the Commonwealth's, "A Guide to the Massachusetts Public Records Law," January 2017 edition, found online at: www.sec.state.ma.us/pre/prepdf/guide.pdf.
- D. Creation of Records. The Town is only required to provide records that are in existence at the time of a request and is not required to create a new record to accommodate a specific request.
- E. Answering Questions. The Town is not required to answer questions in response to a public records request.
- F. Unique Right of Access. If a requester or requester's representative (such as an attorney) asserts "a unique right of access by statutory, regulatory, judicial or other applicable means", the Town will not treat the request as a request made under the *Public Records Law*.

IV. Making Public Records Requests.

- A. Town Website. The Town has taken great efforts to provide the public with access to frequently requested documents. Accordingly, many documents are located on the Town's website: www.townofstockbridge.com . The public is strongly encouraged to search for documents on the website before filing a public records request.
- B. Public Records Requests. Any person may make a public records request:
- i. In person at any of the RAOs' offices;
 - ii. By first class mail addressed to an RAO at the RAO's business address set forth above;
 - iii. By e-mail addressed to the RAO at the e-mail address set forth above;
 - iv. By facsimile addressed to the RAO at the business facsimile number set forth above; or
 - v. To any municipal employee; however, requesting records from an RAO will help the Town to facilitate a timely response. It is therefore preferred that requesters submit all requests to an RAO.
- C. Requests Encouraged to be in Writing. Although not required, it is strongly encouraged that public records requests be in writing to ensure the most efficient and accurate response. All written public records requests, including via email and facsimile, should be addressed and directed to an RAO, and contain the requester's name and contact information, so that the RAO is able to provide the required response.
- D. Form of Request. Voluntary Public Records Request Forms shall be available in all municipal offices and on the Town's website at www.townofstockbridge.com. Requesters are not required to use this form.
- E. Oral Requests. Oral requests may be made to RAOs or municipal employees. An RAO may write an oral request on the Town's form to assist in prompt response. To appeal an RAO response to the Supervisor of Public Records, as specified in Section X, the request must be in writing.
- F. Specificity of Requests. To facilitate timely responses to public records requests, requests should be as specific as possible, detailing, if known, the records custodian(s) and any date and subject matter parameters. The more specific the request, the better able the Town will be to respond. The RAO may ask for more information to assist the requester to make an appropriate request or to enable the RAO to respond more efficiently.

G. Receipt of Requests. Written requests, regardless the form of delivery, will be considered received for purposes of the *Public Records Law* on the first business day following receipt of the request by the RAO. Oral requests shall be deemed received on the day that they were made.

H. Multiple Requests. The Town may treat contemporaneous related requests as a single request and charge fees accordingly. The requester is therefore encouraged to submit one request for all documents sought.

V. Responses to Public Records Requests.

A. Timeline to Respond. The RAO must respond within 10 business days of receipt of the request.

B. Nature of Response. Within 10 business days, the RAO shall either (1) provide the documents sought, or (2) respond to the requester in writing as follows:

- i. Identify any records that the Town does not have in its custody;
- ii. Identify the agency or municipality that may be in possession, custody or control of the public record sought, if known;
- iii. Identify records, or portions thereof, which the Town is not providing, and specify the relevant exemption and its application to the withheld or redacted record;
- iv. Suggest a reasonable modification to the request;
- v. Extend the time to respond, as provided in Section V.D;
- vi. Provide a good faith fee estimate, as provided in Section VIII; and
- vii. Include a statement of appeal rights.

C. Clarification of Request. Depending upon the scope of the request, the requester may be asked to clarify the request, provide more specific detail, or agree to a voluntary extension of time for the Town to respond fully to the request.

D. Extension of Time.

- i. If the magnitude or difficulty of the request, or of multiple requests from the same requester, unduly burdens the other responsibilities of the Town such that the Town is unable to respond within 10 business days, the RAO may extend the time to respond by an additional 15 business days (25 business days from the date of the original request).
- ii. In extending the time to respond, the RAO shall provide a written explanation as to why the request unduly burdens the Town and identify a reasonable timeframe in which the Town will produce the records.

iii. If the Town requires extra time beyond the 15 additional business days, the RAO may petition the Secretary of Public Records for such time, as provided in Section IX.

E. Publicly Available Records. If a request seeks documents available online, the requester will be directed to the relevant website or webpage in satisfaction of the request. If the requester does not have the ability to receive or access the records in a usable electronic form, he or she must notify the RAO, in which case, the RAO must provide the records in an alternate format after assessment and payment of any relevant fees.

F. Electronic Records Delivery Preference. To the extent feasible, the RAO shall provide public records in response to a request by electronic means unless the record is not available electronically or the requester does not have the ability to receive or access the records electronically. To the extent available and feasible, the RAO will provide an electronic record in the requester's preferred format.

G. Request for Records to be Mailed. Should a requester seek to have responsive records provided by mail, the requester will be charged the actual cost of postage, using the least expensive form of mailing possible, unless the requester requests, and agrees to pay for, an expedited form of mailing and such fees are paid in advance.

H. Supplementing Responses. The Town is not required to supplement its response to a previous public records request in the event that responsive records are created in the future.

VI. Categories of Records.

A. Appendix A lists categories of records maintained by the various Town departments. Requesters may also refer to the Municipal Records Retention Schedule, issued by the Supervisor of Public Records, and found at https://www.sec.state.ma.us/arc/arcpdf/Municipal_Retention_Schedule_20161109.pdf, to see which schedule identifies various categories of records maintained by municipal departments and so-called "records in common".

VII. Exemptions.

A. Exemptions/Redaction/Withholding. Some public records, or portions of records, may not be provided in response to a public records request because the Town has determined such records to be exempt from disclosure pursuant to the provisions of *M.G.L. c.4, §7(26)*, the attorney-client privilege, or other applicable exemptions or common law privileges. For more information about exemptions to the Public Records Law, see the Secretary of the Commonwealth's, "A Guide to the Massachusetts Public Records Law," January 2017 edition, available at www.sec.state.ma.us/pre/prepdf/guide.pdf.

- B. Response Letter.** If the Town intends to withhold or redact public records, the RAO shall identify the relevant exemption and its application to the withheld or redacted record.

VIII. Fees.

- A. Reasonable Fees.** The Town may assess a reasonable fee for the production of public records, include the time spent searching for, compiling, segregating, redacting, and reproducing a requested record.

- B. Categories of Permissible Charges.** Permissible charges include, but are not limited to:

- i.** Five cents (\$0.05) per page of black and white printouts or copies;
- ii.** Actual cost for storage devices or materials such as CDs or thumb/flash drives;
- iii.** Actual cost for duplication of records not susceptible to ordinary means of reproduction, such as color copies and large format plans;
- iv.** Postage fees (see Section V.G); and
- v.** Fees for employee time required to satisfy a public records request (see Section VIII.C).

- C. Employee Time for Locating, Segregating, and Redacting Records.**

- i.** A fee may be charged for employee time necessary to identify, locate, compile, review, and segregate the requested record. A fee may also be charged to redact information exempt from public disclosure.
- ii.** The hourly rate for such fees shall be the hourly rate of the lowest paid employee capable of performing the task, provided, however, that this hourly rate shall not exceed twenty-five dollars (\$25.00) per hour, unless the Town has obtained the approval of the State Supervisor of Public Records to charge a higher hourly rate.
- iii.** Depending upon the nature of the request, different rates may be charged for different types of work (i.e., a different hourly rate for search time and a different hourly rate for segregation/redaction time).
- iv.** The Town may petition the Supervisor of Public Records for permission to assess fees for employee time at a rate in excess of \$25.00, as provided in Section IX.

- D. First Two Hours of Time.** As of the 2010 Decennial Census, the Town has less than 20,000 residents. Therefore, the Town may assess fees for the first two hours of employees time spent producing the requested records.

E. Requests for Commercial Purposes. The fee limitations specified in Section VIII.B may not apply when a request for records is for a commercial purpose as determined by the Commonwealth's Supervisor of Records.

IX. Petitions.

A. Extended Time. The Town may petition the Secretary of Public Records for additional time beyond the 25 business days to respond to a request. The Supervisor may grant an extension of 30 business days or longer, depending on the circumstances.

B. Higher Fees. The RAO may petition the Supervisor of Public Records to charge for time spent segregating or redacting records in excess of the maximum hourly rate of \$25 per hour for the time required to comply with a request.

C. Harassment. The RAO may file a petition with the Supervisor of Public Records to relieve the Town from responding to a request if the request is frivolous or intended to harass or intimidate the Town.

X. Appeals.

A. The requester may appeal a RAO's determination to the Supervisor of Records pursuant to 950 CMR 32.08(1). The Supervisor shall make a final determination on the appeal within ten (10) business days of receipt.

B. The requester may appeal a RAO's determination or the Supervisor's determination to Superior Court.

C. For further information on appeals, see the Secretary of the Commonwealth's "A Guide to the Massachusetts Public Records Law," January 2017 edition, available at www.sec.state.ma.us/pre/prepdf/guide.pdf

Appendix "A"

Department/Board General Description of Public Records Maintained

Assessors
Agendas
Minutes
Property Card Database
Assessed Values by Class
Tax Classification
Tax Relief Application
Abatement Information/Application
Exempt Property Information/Application

Building Department
Building and Demolition Applications/Plans
Fees
Zoning Bylaw
Application Forms
Required Inspections
Certificate Information
Enforcement Requests
Stretch Energy Code Information

Selectmen's Office
Policies and Regulations
Alcohol, Entertainment, and Common Victualler Applications and Licenses
Curb Cuts and Street Openings
Special Permits, 6.1.2 and others for the Selectmen and ZBA
Tag Sale Permit Applications
Town-wide Financial Plan
Public Records Requests
Selectmen Meeting Agendas and Minutes
Temporary Sign Permits

Town Clerk
Town Meeting Minutes
Town Meeting / Election Warrants
Election Results
Annual Town Report
Street List
Voter Extracts
Dog Owner Lists
Business Certificate Listing
Meeting Notices/Agendas
Meeting Minutes
Public Records Requests
Town Charter – Copies
Town Bylaws – Copies
Zoning Bylaw
Conflict of Interest Disclosures
Campaign Finance Reports
Perspective Juror List
Planning & Zoning Decisions
State Ethics – Employee Compliance Documents