



TOWN OF NEWBURY PUBLIC RECORDS ACCESS GUIDELINES

Effective January 1, 2017, the Massachusetts Public Records Law, G.L. c.66 and c.4, §7(26) provides that a municipality must, within 10 business days (Monday through Friday, excluding legal holidays), 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 public records in the custody of the Town of Newbury.

General Information:

1. Business Hours. The regular business hours of Town Hall are: Monday, Wednesday, Thursday 8am – 4pm, Tuesday 8am – 7pm.
2. Records Access Officers. The following Records Access Officers (“RAO”) have been designated:

Town Clerk

Gretchen E. Girard
12 Kent Way
Newbury, MA 01922
Phone: 978-465-0862, Ext. 315
Fax: 978-572-1228
Email: townclerk@townofnewbury.org

Police Department:

Chief Patricia A. Fisher
7 Morgan Avenue
Newbury, MA 01951
978-462-4440, Ext. 105
Email: p.fisher@newburypolice.com

Finance Department

Tracy Blais
12 Kent Way
Newbury, MA 01922
978-465-0862, Ext 301
Fax: 978-572-1228
Email: administrator@townofnewbury.org

3. General information about the public records law and public records requests can be found in “Guide to the Massachusetts Public Records Law,” by the Secretary of the Commonwealth, dated January 2017, found online at: www.sec.state.ma.us/pre/prepdf/guide.pdf.

Making Public Records Requests:

4. Any person may make a public records request as follows:
 - a. In person: at 12 Kent Way, Newbury (Byfield) MA, 01922;
 - b. By first class mail: addressed to the appropriate RAO at business address set forth above;
 - c. By facsimile: addressed to the appropriate RAO at the facsimile number set forth above; or
 - d. By e-mail: addressed to the appropriate RAO at the e-mail address set forth above.
5. Requests Should be in Writing. Although not required by law, public records requests should be in writing to ensure the most efficient and accurate response. All written public records requests, including *via* email and facsimile, shall be addressed/directed to an RAO, and contain the requester's name and contact information, so that the RAO is able to provide the required response.
6. Contact Information. Individuals making in-person requests are not required to give their names or contact information. For in-person requests that require additional time for a comprehensive response, requesters will be advised to check in periodically with the RAO or department from which records are sought, or requesters may voluntarily provide contact information. Voluntary Public Records Request Forms shall be available in all municipal offices.
7. Specificity of Requests. To facilitate timely responses to public records requests, requests should be as specific as possible, detailing, if known: the record(s)' custodian(s), the date of the record(s) requested, and/or the specific subject matter of the request. The more specific the request, the better able the Town will be to respond. Please note that broad requests often require more extensive staff efforts to locate, review and copy all possibly responsive records, and may result in increased costs (see fees, below).
8. Receipt of Requests. Written requests received during normal business hours as set forth in paragraph 1 (above), will be considered received on that date. Written requests sent *via* email or facsimile after normal business hours shall not be considered received until the following business day. Business days shall not include Saturdays, Sundays, and legal holidays.
9. Purpose of Request. The RAO may ask the Requester for more information to assist the Requester in making an appropriate request and/or to enable the RAO to respond more efficiently.

Responses to Public Records Requests:

10. Fees. If fees will be assessed, a written estimate of the same will be provided to the Requester.
11. Response if Longer than 10 Days or Denial in Whole or in Part. If a full response, including provision of the requested record(s) cannot be made within 10 business days of receipt of the request, the RAO or designee will respond to the Requester in writing. That writing will contain the following information, where applicable:
 - An explanation of the anticipated reasonable time frame needed to complete the response;
 - Identification of any records that the Town does not have in its custody, any records that the Town does not expect will be provided, and any records that will be redacted;
 - Identification of any reasonable modification of the scope of the request if such modification will make the records more readily and affordably available;
 - Specification of any relevant exemption(s) and their application to the requested record or portion thereof;
 - A good faith fee estimate; and
 - A statement of appeal rights (see below).
12. Clarification of Request. Depending upon the scope of the request, the Requester may be asked to clarify the request, provide more specific detail, and/or agree to a voluntary extension of time for the Town to respond fully to the request.

13. Time for Response. Typically, a complete response will be provided within 25 business days of receipt of the requests. If the RAO does not believe s/he will be able to provide a complete response due to the scope of the request, the need for redactions, or other complicating factors, the RAO may ask the requester for an extension of time to comply, or may petition the Supervisor of Public Records for additional time.
14. Publicly Available Records. The TOWN maintains a searchable website at www.townofnewbury.org where many public records are available for inspection, downloading or printing. If a request seeks documents that are publicly available on the Town's website, the Requester will be directed to the website in satisfaction of the request, unless the Requester does not have the ability to receive or access the records in a usable electronic form.
15. Electronic Records Delivery Preference. To the extent feasible, the RAO or designee will 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.
16. 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.
17. 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.
18. Answering Questions. The Town is not required to answer questions in response to a public records request.
19. 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 or become available in the future.
20. Unique Right of Access. Pursuant to the provisions of 950 CMR 32.06(1)(g), if a Requester or representative (such as an attorney), has "a unique right of access by statutory, regulatory, judicial or other applicable means," a request for records will not be considered a G.L. c.66, §10 public records request.

Categories of Records:

21. Town Records. Attachment A describes with specificity different categories of records maintained by the various Town departments. You 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, which schedule identifies various categories of records maintained by municipal departments and so-called "records in common."
22. Regional School District Records. School-related records are generally maintained by the Triton Regional School District for grades K through 12, and requests for such records should be directed to: Michelle Cresta, Assistant Superintendent/Business Administrator, 112 Elm Street, Byfield, MA 01922 , Phone: 978-465-2397
Email: michelle.cresta@tritonschools.org

Exemptions:

23. Exemptions/Redaction/Withholding. Some public records, or portions of records, may be withheld if the Town has determined that such records are exempt from disclosure pursuant to the provisions of G.L. c.4, §7(26), the attorney-client privilege, the Executive Session 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.

Fees:

24. Reasonable Fees. In some circumstances, the Town may assess a reasonable fee for the production of public records.
25. Categories of Permissible Charges. Permissible charges include, but are not limited to:
 - a. five cents (\$0.05) per page of black and white printouts or copies;
 - b. actual cost for storage devices or materials such as CDs or thumb/flash drives;
 - c. actual cost for duplication of records not susceptible to ordinary means of reproduction, such as color copies and large format plans;
 - d. postage fees (where applicable; see paragraph 15, above); and
 - e. fees for employee time required to satisfy a public records request (see paragraph 26, below).

No copying fee will be charged for records provided in electronic form.

26. Employee Time for Locating and Segregating Records. A fee may be charged for employee time necessary to identify, locate, and compile the records requested. A fee may also be charged for employee time necessary to review, and, as applicable, segregate and/or redact information exempt from public disclosure. 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. 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).
27. Small Municipality Exception. As of the 2010 Decennial Census, the Town had 6,666 residents. In accordance with 950 CMR 32.07(2)(m)(2), therefore, the Town may assess fees for all employee time, including the first two hours.
28. Requests for Commercial Purposes. Fee limitations may not apply when a request for records is for a commercial purpose as determined by the Commonwealth's Supervisor of Records.
29. Petition for Higher Fee. In certain circumstances, 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.

Appeals:

30. If a Requester wishes to assert a claim that they have been denied access to public records, they may appeal the 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.
31. If the Requester is dissatisfied with the determination of the Supervisor of Records, the Requester may appeal to Superior Court. Alternatively, a Requester may bypass the Supervisor and go directly to Superior Court.
32. 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

ATTACHMENT A

The public records maintained by the Town include, but are not limited to, the following:

- Accounts Payable-vendor, billing information
- Annual Town Reports
- Audits
- Budgets
- Building Permits
- Business Certificates
- Business Licenses
- Contracts
- Dog Licenses
- Election Results
- Incident Reports
- Liquor Licenses
- Payroll Records
- Minutes and Agendas of Boards and Committees
- Real Estate/Personal Property Taxes
- Real Estate Assessments
- Resident/Street Listings
- Town By-Laws (General and Zoning)
- Town Meeting Warrants and Minutes
- Voter Lists
- Zoning Board of Appeals and Planning Board Decisions