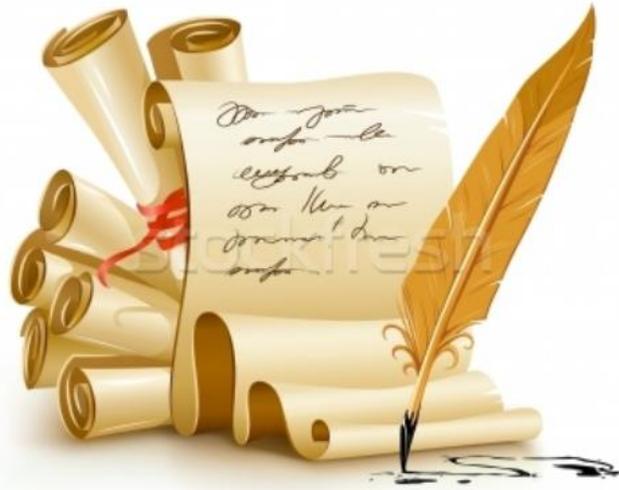


1/1/2017



Town of West Boylston

Public Records Request Compliance

Kim D. Hopewell
TOWN CLERK

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Public Records Compliance

Policy Statement

It is the policy of the Town of West Boylston, Massachusetts, to conform and comply with all laws and regulations regarding public records. Applicable laws and regulations include, but are not limited to, MGL Chapters 7 and 66 as amended by Chapter 121 of the Acts of 2016 and 950 CMR 32 as enacted by the Office of the Secretary of the Commonwealth.

Introduction

On June 3, 2016, Governor Baker signed into law a major revision of the Public Records Law, which takes effect on January 1, 2017. The Secretary of the Commonwealth issued final revisions of 950 CMR Section 32.00 et seq. on December 16, 2016.

The new law and proposed regulations make several important changes to how municipalities respond to public records requests. In brief, cities and town now must (1) create and appoint a new municipal position or positions: Records Access Officer; (2) respond to public records requests within 10 (ten) business days; and (3) post on their websites public records guidelines and identify and provide contact information for all Records Access Officers.

By adopting this document, the Town of West Boylston sets out its policy and procedures for receiving, processing, and responding to public records requests and complies with the new law and regulations.

Records Access Officers

Each city, town, and district must create and maintain a new position or positions: Records Access Officer (RAO).

The new law states: "...Each agency and municipality shall designate 1 or more employees as records access officers. In a municipality, the municipal clerk, or the clerk's designees, or any designee of a municipality that the chief executive officer of the municipality may appoint, shall serve as records access officers...."

The new law states that the RAO "...shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record ... or any segregable portion of a public record, not later than 10 business days following the receipt of the request, provided that:

- (i) the request reasonably describes the public record sought;
- (ii) the public record is within the possession, custody or control of the agency or municipality that the records access officer serves; and
- (iii) the records access officer receives payment of a reasonable fee...”

The Town of West Boylston Select Board, appointed the following Records Access Officer (RAO) organizational chart:



Although the Town Clerk is designated as the default RAO, the Select Board has appointed three other Records Access Officers, each responsible for handling public records requests relating to a specific functional area of town government. The Select Board has appointed the School Superintendent a Records Access Officer to handle public records requests relating to education.. In addition, the Select Board has designated the Town Clerk as the Chief RAO, responsible for setting policy concerning public records matters generally and for developing appropriate guidelines and procedures for responding to public records requests. The Chief RAO will coordinate with the appointed RAOs and with custodians of public records to respond to requests for records.

If you are making a public records request in writing, by e-mail or facsimile or have questions concerning public records issues, please contact any one of the individuals listed below as an RAO. In-person requests may also be made to one of the below-listed RAOs.

List of Records Access Officers

| Records Access Officer | Title | Functional Area of Government | Business Address | Business Telephone | Business Email |
|-------------------------------|--|--------------------------------------|---|---------------------------|----------------------------------|
| Kim D. Hopewell | Town Clerk | General Government | 140 Worcester Street, West Boylston, MA 01583 | (774) 261-4021 | kim.hopewell@westboylston-ma.gov |
| Anthony Papandrea | Sergeant and Public Information Officer | Police Dept. | 39 Worcester Street West Boylston, MA 01583 | (508) 835-3100 | apapandrea@wboylstonpolice.com |
| Colby Fiske | Firefighter and Public Information Officer | Fire Department | 39 Worcester Street West Boylston, MA 01583 | (508) 835-3233 | cfiske@westboylstonfire.org |
| Elizabeth Schaper | School Administrator | Education | 125 Crescent Street West Boylston, MA 01583 | (508) 835-2917 | Superintendent |
| Anita Scheipers | Town Administrator | General Government | 140 Worcester Street West Boylston, MA 01583 | (774) 216-4010 | ascheipers@westboylston-ma.gov |

Requests for records may also be made “over the counter” at Town offices. Such requests may be made to and handled by the custodian of the requested records; provided, however, that if such a request will necessitate allocation of significant time or resources, the custodian of the requested records will inform the appropriate RAO who will provide such response as may be necessary or appropriate. Any person requesting public records may seek out and contact any West Boylston RAO for assistance in determining the appropriate RAO or custodian of records.

For purposes of this policy, the definitions found in the Public Records Law, MGL Chapter 4, Section 7, Clause 26 and MGL Chapter 66, Section 10 and the Public Records Access Regulations, 950 CMR 32.00 et seq., shall be applicable.

- What happens when I request public documents under the new law?
 1. Any person can make a request for public records by e-mail, by facsimile, or in writing to a West Boylston Records Access Officer using the contact information listed above. Requests for copies of records or access thereto may still be made in person at the appropriate Town office.
 2. A request may be made in person or by e-mail, first class mail, facsimile, or hand delivery.
 - Verbal requests for public records will be acknowledged and replied to, even though a requester may not appeal a verbal request to the Supervisor of Public Records.

- A public records request form shall be available to anyone making a public records request, but neither that form, nor any other type of written request, shall be required. See Appendix A.
3. Any RAO receiving a public records request shall immediately notify the Chief RAO in such time as shall be established from time to time by the Chief RAO.
 4. The RAO may contact the requester in order to clarify a request; provided, however, that a RAO may not ask the requester what they intend to use the requested records for, but shall seek to utilize the RAO's superior knowledge of the requested records to ensure that the requester and the RAO understand what is being requested and/or to assist the requester in narrowing or refining the request.
 5. The RAO may assess a reasonable fee for the production of a public record, except those records that are freely available for public inspection (see 950 CMR 32.08); and pursuant to MGL Chapter 66, Section 10(a)(iii), the RAO may require the payment of the reasonable fee prior to production of the requested records.
 - Fees shall conform to the provisions of 950 CMR 32.08(2) or other applicable law, including that black and white copies and printouts shall be charged at \$0.05/page, whether one or two-sided, and the actual cost of a thumb drive or disk if the records are provided electronically other than be-mail.
 - The actual cost of producing a copy of a requested record shall be assessed for records not susceptible to ordinary means of reproduction.
 - With a population of 7,591 as of the 2010 decennial census, the Town of West Boylston may assess fees for employee time required in connection with search, segregation, or copying of requested records (see MGL Chapter 66, Section 10(d)(iii)(B).
 - If the request for public records requires employee time for search, segregation, or copying, including employees or necessary vendors, such as legal counsel, technology and payroll consultants or others as needed, such time shall be assessed as a fee to the requester based upon the prorated hourly rate of the lowest paid employee in that office capable of doing the work. Provided further, however, that if the work needed to reply to request requires time for an employee compensated in excess of \$25/hour, the Town may petition the Massachusetts Supervisor of Records for permission to charge in excess of \$25/hour.
 6. In general, subject to the exceptions set forth in MGL Chapter 66, Section 10(a), the RAO is required to respond within 10 business days of receipt of a public

records request by providing access to or copies of the requested records, providing the requester with direction to access the requested records on the Town's website, or by notifying the requester in writing that all or a portion of the records will be withheld from disclosure and/or that the records will not be provided in that timeframe, addressing the other elements required by law as set forth in MGL Chapter 66, Section 10(b). For the purpose of the response:

- Business days are Monday through Friday, 9:00 a.m. to 4:00 p.m., except for legal holidays and any day when Town Hall is closed for business due to emergency, weather, or other events requiring the unexpected closure of business.
 - Calculation of time shall begin with the first business day following the receipt of the public records request (see 950 CMR 32.03(3)).
 - Example #1: A request for public records is received by an RAO at 2:00 p.m. on a Wednesday. "Day 1" for purposes of the law will be Thursday.
 - Example #2: A public records request received after hours on a Friday. "Day 1" for the purposes of the law will be Monday (or Tuesday, if Monday is a holiday).
 - Example #3: An email requesting public records is received on Saturday. "Day 1" for the purposes of the law will be Monday (or Tuesday, if Monday is a holiday).
 - The Town may refuse to provide records to any person who has not paid a reasonable estimate for provision of public records or who has failed to pay such a fee in connection with a prior request for public records.
 - When the Town, within ten business days as provided by law, provides a good faith estimate of the cost to provide access to or copies of requested records, the number of business days for its response shall be stayed until the Town receives the fee. The Town shall, upon receipt of the fee, undertake the required work to comply with the requested in compliance with the applicable time frames set forth in the statute.
7. If the response to the request is anticipated to be time consuming, extensive, voluminous, or otherwise puts a burden on the Town or its departments, the RAO may request from the Massachusetts Supervisor of Records an extension of time to fulfill the request. The requester of the public records shall be notified in writing that an extension has been requested.

Record Access Officers shall meet on such dates and times, whether regularly or intermittently, as the Chief RAO shall determine. Such meetings are strictly administrative in nature and do not constitute a meeting of a public body under the Open Meeting Law. Meetings among the RAOs may occur in person, by telephone, or by email.

The Town of West Boylston has custody of records as set forth in Municipal Records Retention Schedule, which can be found on the Secretary of the Commonwealth's website on the Archives Division Page at the following link:

http://www.sec.state.ma.us/arc/arcpdf/Municipal_Retention_Schedule_20161109.pdf

Additional information about the Public Records Law may be found on the Secretary of the Commonwealth Public Records Division's website at:

<http://www.sec.state.ma.us/pre/preidx.htm>

- Updated Public Records Law: <https://www.sec.state.ma.us/pre/prenotice.htm>
- A Guide to Massachusetts Public Records Law: <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>
- Making a Request for Public Records: <http://www.sec.state.ma.us/pre/prereq/regidx.htm>
- Appeal a Denial of Access to Public Records: <http://www.sec.state.ma.us/pre/preapp/appidx.htm>
- Electronic Records management Guidelines: http://www.sec.state.ma.us/arc/arcpdf/Electronic_Records_Guidelines.pdf
- Public Record Appeal Status: <http://www.sec.state.ma.us/AppealsWeb/AppealsStatus.aspx>
- Public Records Access, 950 CMR 32: <http://www.mass.gov/courts/docs/lawlib/900-999cmr/950cmr32.pdf>

Compliance Forms

- Public Records Request Form
- Acknowledgement of Receipt
- Delay of Public Records Request
- Good Faith Estimate

Tracking Forms

- Requestors Logs

Kim D. Hopewell, Town Clerk
Elaine S. Novia, Asst. Town Clerk



Telephone/Fax 774-261-4020

Office of the Town Clerk

Town of West Boylston
140 Worcester St.
West Boylston, MA 01583

Public Records Request Form

**All public records request will be responded to within ten (10) days after receipt of request.
Responses may indicate further time is necessary, additional information is required, or
an estimate of fees required to fulfill the request, as examples.**

Pursuant to Public Records Law all exemptions will be redacted from any and all material being released.

Date of Request:

**Description of
Materials Sought:**

Requestors Information:

Name of Requestor:

Firm / Company:

Address:

City:

State:

Zip:

Phone number:

Fax number:

Email:

Please be as specific as possible when requesting information:

COPY OF RECORDS (.05 per page plus search, redact and/or copy fee)

OTHER / ADDITIONAL INFORMATION:

OFFICE USE: Received by: Initial Response: Subsequent Reviews:

Fees: Paid: Records Provided:

Kim D. Hopewell, Town Clerk
Elaine S. Novia, Asst. Town Clerk



Telephone/ Fax 774-261-4020

Office of the Town Clerk
Town of West Boylston
140 Worcester St.
West Boylston, MA 01583

To:

From: Kim D. Hopewell, Town Clerk

Date:

RE: **Public Records Request Response** - Forwarded to Custodian of such Record

This letter is in response to your records request dated _____ and received by the Town Clerk for the Town of West Boylston on _____.

This request has been forwarded to the custodian of such records requested. Below is the contact information for the custodian of the requested records.

Be advised that Public Records Requests in Massachusetts are governed by General Law Chapter 66 as well as Code of Massachusetts Regulations 950 CMR 32.00.

Kim D. Hopewell, Town Clerk
Elaine S. Novia, Asst. Town Clerk



Telephone/Fax 774-261-4020

Office of the Town Clerk

Town of West Boylston
140 Worcester St.
West Boylston, MA 01583

To:

From:

Date:

RE: Public Records Request Response – Full Response not within 10 business days

Please accept this as confirmation of receipt of your public records request and our initial written response as required (within 10 business days) under the Public Records Law.

Date Listed on Request: _____

Date Request Received: _____ **by:** _____

Date Request Received by Custodian of Record: _____

Date Initial Response confirming Receipt sent: _____

As outlined in the Public Records Law we are allowed up to 25 business days from the original request to provide a full response. See below for additional information as required under the Public Records Law when we are unable to provide you with your requested record(s) within 10 business days:

Outlining what will be withheld (if known):

Reasons for inability to provide the records in the 10 business day time frame:

We expect to be able to provide you with a further response by: _____

Town of West Boylston, Massachusetts



**Public Records Request
Good Faith Estimate**

In accordance with Chapter 66, Section 10 of the Massachusetts General Laws and 950 CMR 32, the Town of WEST BOYLSTON may assess a reasonable fee for complying with a public record request. The Regulations provide that, in cases where *search or segregation* time is necessary, a custodian may charge a prorated fee based on the hourly rate of the lowest paid employee who is capable of performing the task.

Search time is defined as the time needed to locate, pull from the file, copy and re-file public records; *segregation* time is defined as the time needed to delete data which is exempt from non-exempt material. In addition to search and segregation time, a five cent (5¢) per page copying fee may be assessed for a photocopy of a record.

The Custodian shall provide a written, good faith estimate of the applicable copying, search and segregation time fees prior to complying with the request, if the fees are estimated to exceed \$10.00. We require prepayment of that fee prior to complying with the request.

DESCRIPTION OF REQUEST _____

| | |
|--|--------------------------|
| <i>Good Faith Estimate</i> | |
| <i>Estimated Search Time</i> | Minutes @ .35 = _____ \$ |
| <i>Estimated Segregation Time</i> | Minutes @ .35 = _____ \$ |
| <i>Estimated Copy Time</i> | Minutes @ .35 = _____ \$ |
| <i>Pages to Copy</i> | Minutes @ .35 = _____ \$ |
| <i>Electronic File/Computer Printouts</i> | Pages @ .05 = _____ \$ |
| <i>Total Estimated Cost:</i> | _____ \$ |
| <i>Estimate Provided By:</i> | |
| <i>Estimate Accepted By:</i> | |
| Name | _____ |
| Address | _____ |
| Town, State, Zip Code | _____ |
| Contact Number | _____ |

