

Town of Westwood

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 Westwood.

General Information:

1. Business hours. The regular business hours of Town Hall are Monday, Wednesday, Thursday: 8:30AM-4:30PM, Tuesday: 8:30A-7:00P & Friday: 8:30AM-1:00PM
2. Records Access Officers. The following Records Access Officers ("RAO") have been designated:

Super RAO

Dorothy A. Powers, Town Clerk

dpowers@townhall.westwood.ma.us

Municipal RAO

Christine, McCarthy, Executive Assistant, Selectmen's office

cemccarthy@townhall.westwood.ma.us

Land Use RAO

Nora Loughnane, Comm. & Econ. Dev. Dir.

nloughnane@townhall.westwood.ma.us

Department of Public Works RAO

DPW Director Todd Korchin

tkorchin@townhall.westwood.ma.us

Fire Department RAO

Deputy Fire Chief, Michael Reardon

mreardon@townhall.westwood.ma.us

Police Department RAO

Lt. Christopher Sheehy

csheehy@westwoodpd.org

Records Access Officers are available to answer questions concerning and helping facilitate the making of public records requests. Contact information for RAO's is also posted on the Town's website,

www.townhall.westwood.ma.us and at public offices. ***For any questionable requests please consult Town Counsel.***

3. **Public Records Law information.** General information about the public records law and public records request are found in the secretary of the commonwealth's, "A guide to the Mass Public Records Law, " January 2017 edition, found online at www.sec.state.ma.us/pre/predf/guide.pdf.

Making Public Records Requests:

4. **Public Records Requests:** Any person may make a public records request:
 - In person
 - By first class mail
 - Email
 - Facsimile

5. **Requests:** are encouraged to be in writing. Though not required, it is strongly recommended that public records request be in writing to ensure the most efficient and accurate response. All written public records request including via email and facsimile, shall be addressed/directed to an RAO and contain the requesters name and contact information so that the RAO is able to provide the required response.
6. **Contact Information:** Individuals making in-person requests will not be requested or 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, records custodian(s), date and subject matter parameters. The more specific the request, the better able the Town of Westwood will be able to respond, as broad requests often require more extensive staff efforts to locate, review and copy all possible responsive records.
8. **Receipt of Requests:** Written requests received during normal business hours, as defined in paragraph 1 above, will be considered received on that date. Written request sent via email or facsimile after normal business hours shall not be considered received until the following business day. Business days shall not include Saturday, Sundays, and legal holidays.
9. **Purpose of Request:** The RAO will not ask a requester to identify the purpose of the request, however may ask for more information to assist the requester to make 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. In order to charge a fee, the town has to respond to the requestor within 10 business days. Failure to respond forfeits right to assess fees.
11. **Response if longer than 10 days or denial in whole or in part:** If a full response, including provision of records, cannot be made within 10 business day of receipt of the request, the RAO or designee will respond to the requester in writing: explain the anticipated time frame for a complete response; identifying any records that the Town of Westwood does not have in its custody; identify records which the Town does not expect will be provided, or that will be redacted, specifying the relevant exemption and its application to the requested record or portion thereof; providing a good faith fee estimate; and including a statement of appeal rights.

Initial Written Response/Denial to requester-Required elements (within 10 business Days)

1. **Confirm receipt and date of request;**
2. **Identify requested records or categories of records not within possession or custody of RAO; identify agency, municipality, RAO or custodian with custody, if known;**
3. **Identify records that RAO intends to withhold and/or redact, detailing with specificity reasons therefore and asserting applicable exemptions;**
4. **Identify records produced or intended to be produced and, if necessary a detailed statement describing why response time in excess of 10 business days is required**
5. **Identify anticipated timeframe for production-cannot exceed 25 business days after receipt of request without extension-and provide detailed explanation of how request unduly burdens other responsibilities, including magnitude or difficulty of request, size of office, office hours;**
6. **If more than 25 days response time is anticipated, notify requester of possible actual petition to supervisor for extension of time and include request for requester's voluntary assent to additional time;**
7. **suggest a modification of request if appropriate to reduce estimated response time and cost;**
8. **itemized good faith estimate of fees, if charged; if community has 20,00 or fewer residents, population date to support assessment of fees; and**

9. **Statement informing requester of the right of administrative appeal to the supervisor of records under 950 CMR 32.08(1), and the right to seek judicial review of any unfavorable decision by commencing a civil action in the superior court pursuant to G.L. c.66,§10A (c).**
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 due to the scope of the request the need for redaction or other complications and the Town is concerned that it will not be able to provide a complete response within that time frame the Town may ask the requestor for an extension of time to comply or petition the supervisor of public records for additional time. The Supervisor of Public records may grant up to 30 additional business days unless a finding of frivolous or harassing requests are made. **Extension runs from date Supervisor grants petition.**

Criteria for Petitions to state Supervisor of Records should address the following:

- 1) Scope and extent of search for and segregation of records;
- 2) Scope of redaction necessary to prevent unlawful disclosure;
- 3) Capacity and normal business hours of RAO or department;
- 4) effort to fulfill current and previous requests;
- 5) whether request, individually or as part of series, from the same requester, is frivolous or intended to harass or intimidate municipality; and
- 6) whether public interest is served by expeditious disclosure.

Petitions related to Fees should assert in good faith:

1. Request is for a commercial purpose: or
 2. The request could not prudently be completed without redaction, segregation or fee in excess of \$25 per hour; the fee is reasonable and not designed to limit, deter or prevent access to requested public records; balancing the public interest in disclosure and the requester's ability to pay.
14. **Publicly Available Records:** The Town maintains a searchable website at www.townhall.westwood.ma.us where certain public records are available for inspection, downloading or printing. If a request seeks documents publicly available on the Town's website, the requester will be directed to the website in satisfaction of the request unless the requestor does not have the ability to receive or access the records in a usable electronic format.
 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 new records 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 Response:** 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.
 20. **Unique Right of Access:** Pursuant to the provisions of 950 CMR 32.06(1) (g), if a requester or requester's 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.c66,§10 public records request.
 21. Attachment "A" describes with specificity different categories of records maintained by 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 department and so-called "records in common".

22. School related records are maintained by the Westwood public schools and requests for such records should be directed to Director of Student Services Abigail C. Hanscom, ahanscom@westwood.k12.ma.us or Administrative Assistant Leeann Plouffe, lpouffe@westwood.k12.ma.us p: 781-326-7500 x1345
23. **Exemptions:** 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 provision of 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 Massachusetts Public Records Law," January 2017 edition available at www.sec.state.ma.us/pre/prepdf/guide.pdf.

Fees:

24. **Reasonable Fees:** In some circumstance, 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 the following:
 - a) five cents (\$0.05) per page of black and white printouts or copies;
 - b) actual cost for storage devices or materials such as CD'S or thumb/flash drives;
 - c) actual cost of 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 of Westwood had **14,618** residents therefore the Town may assess fees for all employee time including the first two hours.
28. **Requests for Commercial Purposes:** Said fee limitations may not apply when a request for records is a commercial purpose as determined by the commonwealth's Supervisor of Public 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 per hour.

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 day of receipt.
31. If the requester is dissatisfied with the determination of the Supervisor of Public 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 guides to the Mass public records law January 2017 edition available at [www. Sec.sate.ma.us/pre/prepdf/guide.pdf](http://www.Sec.sate.ma.us/pre/prepdf/guide.pdf).