



## TOWN OF BOXBOROUGH

### 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 Boxborough.

**The town maintains a searchable website at <https://www.boxborough-ma.gov/documentcenter> where certain public records are available for inspection, downloading or printing.**

#### **GENERAL INFORMATION**

**Business Hours:** The regular hours of the Boxborough Town Hall are: Monday-Thursday 8am – 4pm

**Records Access Officers (RAO):** The following RAOs have been designated, and the email [publicrecords@boxborough-ma.gov](mailto:publicrecords@boxborough-ma.gov) will go to all RAOs listed below; the RAO that responds will cc all others on their response.

**Town Clerk:**

Rebecca Harris <a href="mailto:rharris@boxborough-ma.gov">rharris@boxborough-ma.gov</a>	29 Middle Rd. Boxborough, MA 01719 978-264-1727
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**Town Administrator:**

Michael Johns <a href="mailto:mjohns@boxborough-ma.gov">mjohns@boxborough-ma.gov</a>	29 Middle Rd. Boxborough, MA 01719 978-264-1712 978-264-3127 (fax)
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**Police Department:**

Chief John Szewczyk <a href="mailto:jszewczyk@boxborough-ma.gov">jszewczyk@boxborough-ma.gov</a>	520 Massachusetts Ave. Boxborough, MA 01719 978-264-1760 978-268-5123 (fax)
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**Fire Department:**

Chief John Kivlan <a href="mailto:jkivlan@boxborough-ma.gov">jkivlan@boxborough-ma.gov</a>	502 Massachusetts Ave. Boxborough, MA 01719 978-264-1770 978-263-0038
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**Acton-Boxborough Public Schools**

Andrew Shen <a href="mailto:ashen@abschools.org">ashen@abschools.org</a>	15 Charter Rd Acton, MA 01720 978-264-4700 x3208
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Public Records Law 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, updated February 2022 found online at: [www.sec.state.ma.us/pre/prepdf/guide.pdf](http://www.sec.state.ma.us/pre/prepdf/guide.pdf)

Other helpful information on the public records law:

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

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

<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter121>

## **MAKING PUBLIC RECORDS REQUESTS**

1. Public Records Requests: Any person may make a public records request:
  - In person
  - By First class mail
  - By e-mail addressed to the RAO at the e-mail addresses above
  - By facsimile addressed to the RAO at the business facsimile number above (when applicable)
  - By telephone at the discretion of the RAO
2. 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, shall be addressed/directed to an RAO, and contain the requester's name and contact information (email and phone), so that the RAO is able to provide the required response. If a request is not made in writing, the RAO will record the request to the best of their abilities and include that written request in the response.
3. Contact Information: Individuals making in-person requests are not required to give their names or contact information, but are encouraged to do so for ease of follow-up. 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. Though use of the Town's form is not required, Public Records Request Forms shall be available in all municipal offices and on the town's website.
4. Specificity of Requests: To facilitate timely responses to public records requests, requests should be as specific as possible, detailing, if known, records custodian(s), and date or applicable time period, and subject matter(s). The more specific the request, the better able the town will be to respond. Broad requests often require more extensive staff efforts to locate, review and copy all possibly responsive records.
5. Receipt of Requests: Written requests received during normal business hours, as defined 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.
6. Purpose of Request: Except to determine whether the records are being requested for a commercial purpose, or to determine whether to grant a fee waiver, the RAO may not ask a

requester the reason for the request or the intended use of the requested records. However, the RAO 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**

7. **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 must respond with the good faith fee estimate to the requestor within 10 business days. Failure to respond forfeits the town's right to assess fees. (*see fees section below for additional information*)
8. **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 days of receipt of the request, the RAO or designee will respond to the requester in writing with any applicable information from the following list:
  - explaining the anticipated time frame for complete response;
  - identifying any records that the town does not have in its custody;
  - identifying 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;
  - including a statement of appeal rights.
9. **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.
10. **Time for Response:** Typically, a complete response will be provided within 25 business days of receipt of the requests. Also, the requestor should be asked if the proposed timeline is acceptable in the fee estimate letter. If, due to the scope of the request, the need for redactions, or other complications, the town is concerned that it will not be able to provide a complete response within that time frame, the town may ask the requester 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, which may be extended upon a finding of frivolous or harassing requests.
11. **Publicly Available Records:** The town maintains a searchable website at [www.boxborough-ma.gov/](http://www.boxborough-ma.gov/) 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 requester does not have the ability to receive or access the records in a usable electronic form.
12. **Electronic Records Delivery Preference:** To the extent feasible, the RAO or designee will provide public records in response to a request by electronic means, via email, unless the record is not available electronically or the requester does not have the ability to receive or access the records electronically. Should an electronic file be too large to email, the

requestor will be asked to pay for the cost of a USB, or similar means, to obtain the requested files. To the extent available and feasible, the RAO will provide an electronic record in the requester's preferred format.

13. **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.
14. **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.
15. **Answering Questions:** The town is not required to answer questions in response to a public records request.
16. **Supplementing Responses:** The town is not required to supplement its response to a previous public records request if records are created in the future.
17. **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. c.66, §10 public records request.

## **CATEGORIES OF RECORDS**

**Town Department Record Categories:** Appendix "A" describes with specificity different categories of records maintained by the various town departments, which should be readily accessible. You may also refer to the Municipal Records Retention Schedule, issued by the Supervisor of Public Records, found at [Mass Secretary Of State's Municipal Retention Schedule \(updated April 4, 2020\)](https://www.mass.gov/doc/mass-secretary-of-state-s-municipal-retention-schedule-updated-april-4-2020) which identifies various categories of records maintained by municipal departments and so-called "records in common". **Requests for town records can be made directly to the Custodial Department in which the records are maintained, if known. Requestors otherwise may direct their request to the Town Clerk's Office when the requestor is unsure where the records are maintained.**

18. **School Records:** Boxborough Public School related records are maintained by the Acton-Boxborough regional school district and requests for such records should be made directly to the **Acton-Boxborough Regional School Department** RAO listed under General Information, above.
19. **Police Records:** Police Department related records are maintained by the Police Department and requests for such records should be made directly to the **Police Department** RAOs listed under general information, above.
20. **Fire Records:** Fire Department related records are maintained by the Fire Department and requests for such records should be made directly to the **Fire Department** RAO listed under general information, above.

## **EXEMPTIONS**

21. **Exemptions/Redactions/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 G.L. c.4, §7(26), the attorney-client privilege, or other applicable exemptions or common law privileges. Specific exemptions should be cited in the response letter that will be used for each redaction. 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, updated February 2022, available at [www.sec.state.ma.us/pre/prepdf/guide.pdf](http://www.sec.state.ma.us/pre/prepdf/guide.pdf).

## **FEES**

22. **Reasonable Fees:** In some circumstances, the town may assess a reasonable fee for the production of public records. Records that are readily accessible will be provided free of charge whenever possible. If the time it will take to identify, segregate, compile, and redact records is more than approximately 30 minutes, it is likely that a fee will be charged.
23. **Categories of Permissible Charges:** Permissible charges include, but are not limited to:
  - five cents (\$0.05) per page of black and white printouts or copies;
  - for records not reproducible by ordinary means, actual cost of producing copies, e.g., plot plans (\$0.50/copy);
  - actual cost for storage devices or materials such as CDs or thumb/flash drives;
  - actual cost for duplication of records not susceptible to ordinary means of reproduction, such as color copies and large format plans;
  - postage fees (*where applicable; see paragraph 13, above*);
  - fees for employee time required to satisfy a public records request. (*see number 25 below*)

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

24. **Employee Time for Locating and Segregating Records:** A fee may be charged for employee time necessary to identify, locate, and compile the records requested. **In municipalities with fewer than 20,000 residents as of the last U.S. decennial census, the requestor can be charged for all employee time necessary to respond to the request. See 950 CMR 32.07(2)(m).** 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. **The records custodian may wait until receipt of the applicable fees prior to performing the work necessary to comply with the request. The RAO may request a down payment or the complete cost before fulfilling the request, at the RAO's discretion.**

25. **Requests for Commercial Purposes:** Said fee limitations may not apply when a request for records is for a commercial purpose as determined by the Commonwealth's Supervisor of Records.
26. **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**

27. 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.
28. 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.
29. For further information on appeals, see the Secretary of the Commonwealth's "A Guide to the Massachusetts Public Records Law," January 2017 edition, updated February 2022, available at [www.sec.state.ma.us/pre/prepdf/guide.pdf](http://www.sec.state.ma.us/pre/prepdf/guide.pdf)

## **FAQS**

**What is a public record?** Every record that is made or received by a government entity or employee is presumed to be a public record unless a specific statutory exemption permits or requires it to be withheld in whole or in part. The legislature created specific statutory exemptions and the courts have recognized common law exemptions, such as the attorney-client privilege. These exemptions permit the agency or municipality to withhold a record from the public. The exemptions to the Public Records Law are described in this [guide](#). 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 G. L. c. 4, § 7(26) or other legally applicable privileges.

**What is a Records Access Officer (RAO)?** The employees designated within a governmental entity to perform duties described in 950 C.M.R. 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 requestors to make informed requests regarding the availability of such public records electronically or otherwise.

**May I appeal a failure to answer a question?** The Public Records Law only applies to records. The RAO is not required by the Public Records Law to answer questions or create a record in response to a request; however, an RAO must provide any records that exist that respond to a question.

**Does a requestor have greater right of access to records if he is the subject of a record?** Under the Public Records Law, every requestor is treated equally; therefore, even a person who is the subject of the record is not granted any greater access right than any other person. Access to a record requested pursuant to the Public Records Law rests on the content of the record.