

TOWN OF WHATELY 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 Whately.

General Information:

1. Business Hours. The regular business hours of the Whately Town Offices are Monday – Thursday from 8 a.m. – 4 p.m., Friday from 9 a.m. – Noon. The Town Clerk’s Office is also open Monday evenings from 4 – 7 p.m.
2. Records Access Officers. The following Records Access Officers (“RAO”) have been designated:

Lynn Sibley, Town Clerk (Principal RAO)

Whately Town Offices

4 Sandy Lane

So. Deerfield, MA 01373

tcclerk2@comcast.net

Phone: 413-665-4400 x3

Fax: 413-665-9560

Monday 8 a.m. – 7 p.m., Tues – Thurs 8 a.m. – 4 p.m. and Friday 9 a.m. - Noon

Cynthia Herbert-Ramirez - Assessors

Whately Town Offices

4 Sandy Lane

So. Deerfield, MA 01373

whatelyassessor@comcast.net

Phone: 413-665-4400 x4

Fax: 413-665-9560

Tuesday and Wednesday from 9 a.m. – 4 p.m.

James Sevigne - Police Chief

Whately Police Department

James A. Sevigne

Chief of Police

77 Christian Ln.

P.O. Box 251

Whately, Ma 01093

Phone: 413-665-0430

Fax: 413-665-0322

whatelypdjs@comcast.net

Maryellen Cranston – Alternate

Whately Town Offices

4 Sandy Lane

So. Deerfield, MA 01373

whatelysecretary@comcast.net

Phone: 413-665-4400 x1

Fax: 413-665-9560

Generally Mon – Thursday 8 a.m. – 4 p.m.

For Board of Health and Health Agent Issues:

Foothills Health District

P O Box 447

Haydenville, MA 01039

Phone: 413-268-8404

No set hours

For School Related issues contact Patti Cavanaugh, Business Manager

Frontier Regional School District

113 North Main Street

So. Deerfield, MA 01373

patti.cavanaugh@frsu38.org

Phone: 413-665-1155

Fax: 413-665-8506

Records Access Officers are available to answer questions concerning and help facilitate the making of public records requests. Contact information for RAOs is also posted on the whately.org website and at the Whately Town Offices.

3. 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 edition, found online at: www.sec.state.ma.us/pre/prepdf/guide.pdf.

Making Public Records Requests:

4. Public Records Requests. Any person may make a public records request:

- a. In person at Whately Town Offices, 4 Sandy Lane, Whately (physical address) or to the address of the specific RAO listed above.
- b. By first class mail addressed to the RAO at the RAO's business address set forth above;
- c. By facsimile addressed to the RAO at the business facsimile number set forth above [if one is provided above]; or
- d. By e-mail addressed to the RAO at the e-mail address set forth above.

5. 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, 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), and date and subject matter parameters. The more specific the request, the better able the Town will be to respond, as broad requests often require more extensive staff efforts to locate, review and copy all possibly 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 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 will not ask a requester to identify the purpose of the request, but 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.
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 days of receipt of the request, the RAO or designee will respond to the requester in writing: 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; and including a statement of appeal rights.
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 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.

14. **Publicly Available Records.** The Town maintains a searchable website at whately.org 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.
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 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. c.66, §10 public records request.

Categories of Records:

21. 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 Frontier Regional School District for grades K through 12, and requests for such records should typically be directed to the District at the above address for School Related issues. Franklin County Technical School Records requests should be directed to:

Franklin County Technical School
82 Industrial Boulevard
Turners Falls, MA 01376

Exemptions:

23. 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 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.

Fees:

24. Reasonable Fees. In some circumstances, the Town of Whately 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 of Whately had 1576 residents. See <https://www.sec.state.ma.us/census/whately.htm>. In accordance with 950 CMR 32.07(2)(m)(2), therefore, the Town of Whately 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 for a commercial purpose as determined by the Commonwealth's Supervisor of Records.
29. Petition for Higher Fee. In certain circumstances, the Town of Whately 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"

Department/Board General Description of Public Records Maintained

The list below is only a partial list of records available. It will be updated periodically to include new records. Please call the RAO for that department to see if a record is available. Many meeting minutes and agendas, assessor maps can be found on the website www.whately.org

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