



Town of Wenham

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Selectmen / Town Administrator
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MEMORANDUM

TO: Board of Selectmen
FROM: Peter Lombardi, Town Administrator
CC: Dianne Bucco, Town Clerk
RE: Public Records Request Policy: **As Approved by the Selectmen on 12.20.16**
DATE: December 15, 2016

Earlier this year, An Act to Improve Public Records was signed into law. This new law goes into effect on January 1, 2017. To comply with its requirements, the Town needs to adopt a formal policy regarding our response to public records requests. In the interest of uniformity, transparency, and compliance with these statutory requirements, I would recommend that the following shall serve as the Town's public records request policy. This policy shall be applied consistently throughout the various offices and departments of the Town.

- As the custodian of records who is responsible for preserving public records, the Wenham Town Clerk shall be appointed as the Primary Records Access Officer (RAO) by the Board of Selectmen on an annual basis. Notice of such appointment will be made to the Secretary of State's office. All public records requests will be forwarded to the Town Clerk acting in his/her role as the Primary RAO. The requestor will be notified that the response to their request will be delivered by the Primary RAO.
- The Primary RAO's duties are to:
 - Coordinate the Town's response to requests for public records (they will not be required to personally fulfill requests for public records, but will act as a central point of contact through which all such requests will be processed)
 - Assist individuals seeking public records in identifying the records being requested
 - Establish guidelines that assist requestors to make informed requests, including providing a listing of categories of various municipal public records
 - Direct the individual(s) who he/she believes has the best access to the requested information to complete the request
- One person within each office or department may be designated as a secondary RAO. These individuals are not required to be formally appointed by the Selectmen

but may be appointed if the Board so chooses. Notice of such designation or appointment will also be made to the Secretary of State's office. These secondary RAOs will ensure that all requests made pursuant to Massachusetts Public Records Law are routed through the Primary RAO.

- All RAOs shall be trained in, and will follow, all Freedom of Information Act and Massachusetts Public Records Law statutory requirements.
- The Primary RAO will be responsible for creating and maintaining a Public Records Request Log that details when requests are received, who will be responsible for completing the request, what records are being searched, what responses have been provided, and when those responses have been provided. This log will include time-stamped receipt of requests, copies of what records were delivered (electronic or hard copy), and confirmation of their delivery.
- Written requests are recommended but not required by law. Oral requests are valid under the law as well. If a secondary RAO is given an oral request, he/she shall forward a written document describing the request to the Primary RAO so that the request may be properly recorded and routed.
- If a public records request pertains to a specific employee, that employee will be notified of the request and the RAO's intention to fulfill the request. Requests of this nature made in the course of an investigation shall be exempt from this provision.
- RAOs must respond to requests within 10 business days if they intend to affirmatively respond to the request. If they intend to deny the request, such notification shall take place within 10 business days. These deadlines may be extended upon approval of the Supervisor of Records.
- Should an RAO deny a public records request for any reason, the requestor has the right to appeal this decision to the Supervision or Records. The Primary RAO and Town Administrator shall be notified in advance of any such determination to deny access to public records in order to consult with legal counsel beforehand, since the Town may be liable to cover attorney fees or other costs if the requestor prevails in court.
- The new fee schedule for public records retrieval is \$.05/page plus the prorated hourly wage of the lowest paid employee in the office who is capable of performing the task, not to exceed \$25/hour unless otherwise approved by the Supervisor of Records. Time spent searching, redacting, and photocopying the records should be included in this calculation. The per page fee shall not apply to any records sent electronically. The hourly rate shall be applied to the production of both hard copy and electronic responses.
- The Primary RAO shall provide copies of the requested documentation to the requestor, which may be reasonably withheld unless payment (as applicable) has

been made to the Town. The Clerk's Office shall retain all fees collected through this process. The Town may choose to waive any such fees.

- Notwithstanding this formal process, the Town is now required to make every reasonable effort to make public records available electronically, whether on the Town website or via email upon request, and shall endeavor to do so.
- If any element of this policy conflicts with the provision of 950 CMR 32, the state regulations shall prevail.