

City of Beverly Public Records Access Guidelines

I. INTRODUCTION

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. The Secretary of the Commonwealth, in accordance with this new Law, promulgated regulations in 950 C.M.R. 32 that require Records Access Officers to formulate guidelines for members of the public to use to navigate public records access process as it exists in the City of Beverly. The guidelines enumerated below are intended to assist members of the public seeking access to public records in the custody of the City of Beverly and also City employees in their efforts to satisfy record requests.

These guidelines are informational only. Nothing herein alters the legal rights and obligations of the City or the requester. Additionally, the Guidelines are not and should not be construed as legal advice.

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Public Record Guidelines

1. General Information, Commonly Requested Records Access.

Many commonly requested records may be obtained in the Office of the City Clerk, including but not limited to birth certificates, death certificates, city council orders or ordinances, licenses and other routine records. Many others may be readily available on the City's Website such as City contracts, annual reports, minutes and agendas. If requesters consult the [City's Public Records and Document Archive](#), they might be able to navigate right to the record they seek. If not, information that will more expediently assist them is available on that page.

City Hall Business Hours. The regular business hours of Beverly City Hall are:

Monday - Wednesday 8:30 AM - 4:30 PM
Thursday 8:30 AM - 7:30 PM
Friday 8:30 AM - 1:00 PM.

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.

2. **Records Access Officers in Beverly.** Records Access Officers ("RAOs") are available to answer questions concerning public records access in Beverly and to help facilitate a response to public records requests. Especially for requests where there is no obvious department that would have the desired record or if the requester does not know exactly what type of record the City might have that would disseminate the information sought. Contact information for RAOs is also posted on the City of Beverly's Website on the [Public Records and Document Archive Page](#) and at public offices. The following Records Access Officers have been designated:

City Hall Records Records Access Officer:

Kevin Corridan
Assistant City Solicitor
191 Cabot Street
kcorridan@beverlyma.gov
978-921-6035

School related requests Records Access Officer

Dr. Steven Hiersche
Superintendent of Schools
70 Balch Street, Beverly, MA 01915
shiersche@beverlyschools.org
978-921-6100 x 21712

3. **Making a Public Records Request.** Any person may make a public records request:
 - A. In person at the City Clerk's Office located at 191 Cabot Street, Beverly MA 01915.
 - a. By first class mail addressed to the RAO at the appropriate RAO's business address set forth above;
 - b. By e-mail addressed to the RAO at the e-mail address set forth above.
 - c. By filling out the online form discussed below, or
 - d. If a fax number is provided above for an RAO, a request may be submitted to the RAO at that fax number. Fax requests should not be sent to a fax number unless it is specifically associated with an RAO. By facsimile addressed to the RAO at the business facsimile number set forth above [if one is provided above];

- B. Requests Encouraged but not Required to be in Writing. The City has a [Public Records Request](#) Form that you can fill out and submit online or print out and mail in to the appropriate RAO. Although it is not required, it is strongly encouraged that public records requests be in writing to ensure the most efficient, timely and accurate response. It reduces confusion about the nature and scope of the request as well as compliance with the response timeline required by the new Law. 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.
- C. Contact Information. Individuals making in-person requests can be fulfilled at the time of the request will not be requested or required to give their names or contact information. However, if an in-person request requires additional time for a response, the requester will be asked to for their name and contact information. Voluntary Public Records Request Forms shall be available in all municipal offices.
- D. 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 [City/Town] will be to respond, as broad requests often require more extensive staff efforts to locate, review and copy all possibly responsive records.
- E. 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.
- F. 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.

4. The City's Responses to Public Records Requests:

- A. Publicly Available Records. The City of Beverly maintains a searchable website at <http://www.beverlyma.gov/> where certain public records are available for inspection, downloading or printing. If a request seeks documents publicly available on the City of Beverly'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.
- B. Routine, Commonly Requested Records. Commonly requested and existing records that are not available on the City's website but are routine and easy to produce will be provided to the requester by the keeper of those records within the 10-day statutory period for the initial response and without delay.
- C. Response if Longer than 10 Days or Denial in Whole or in Part; Written Explanation. If a satisfactory response, including the full and complete 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 status of the response. The written explanation will include the anticipated time frame for identifying records that may be responsive and

for completing the response. To the extent known, it will also identify any records that the City of Beverly does not have in its custody, records which the City of Beverly does not expect will be provided, or that will be redacted, specifying the relevant exemption(s) and application thereof to the requested record or portion thereof to the extent known at the time of the initial response. The written explanation will also provide a good faith fee estimate if a fee is to be charged and it will also include a statement of appeal rights.

- D. Clarification of Request. Depending upon the scope and nature of the request, the requester may be asked to clarify or narrow the request, provide more specific detail, and/or agree to a voluntary extension of time for the City of Beverly to respond fully to the request.
- E. Fee Estimate. If fees will be assessed, an estimate of the same will be provided to the Requester in the written explanation discussed above. This estimate may need to be revised once the City identifies all potentially responsive documents.
- F. Timeline for Response. Typically, a complete response will be provided within 25 business days of receipt of the request. If, due to the scope of the request, the need for redactions, or other complications, the City of Beverly is concerned that it will not be able to provide a complete response within that time frame, the City may ask the requester for an extension of time to comply or petition the State Supervisor of Public Records for additional time.
- G. Electronic Records Delivery Preference. To the extent feasible, the RAO, Keeper of Records, 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.
- H. 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.
- I. Creation of Records. The City of Beverly is only required to provide records that exist at the time of a request and is not required to create a new record to accommodate a specific request.
- J. Answering Questions. The City of Beverly is not required to answer questions in response to a public records request.
- K. Supplementing Responses. The City of Beverly is not required to supplement its response to a previous public records request in the event that responsive records are created in the future.
- L. Unique Right of Access. Pursuant to the provisions of 950 C.M.R. 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.

5. Categories of Records:

You may 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 identifies various categories of records maintained by municipal departments and so-called “records in common”.

6. Exemptions:

Exemptions/Redaction/Withholding. Some public records, or portions of records, may not be provided in response to a public records request because the City of Beverly has determined such records to be exempt from disclosure pursuant to the provisions of M.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 <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>.

7. Fees:

- A. Reasonable Fees. In some circumstances, the City of Beverly may assess a reasonable fee for the production of public records.
- B. 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; and
 - e. fees for employee time required to satisfy a public records request.
- C. No copying fee will be charged for records provided in electronic form.
- D. 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 City of Beverly 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).
- E. First Two Hours Free. There shall be no fee for the employee time required to satisfy a public records request for the first two (2) hours of work performed.
- F. Requests for Commercial Purposes. Said fee limitations may not apply when a request for records is for a commercial purpose as determined by the State’s Supervisor of Records.

- G. Petition for Higher Fee. In certain circumstances, the City of Beverly may petition the State Supervisor of Public Records for permission to assess fees for employee time at a rate in excess of \$25.00.

8. Appeals:

- A. 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 State Supervisor of Records pursuant to 950 C.M.R. 32.08(1).

This is the Contact information:

Supervisor of Public Records
Public Records Division
McCormack Building
One Ashburton Place, Room 1719
Boston, MA 02108

Public Records: 617-727-2832
Fax: 617-727-5914
Email: pre@sec.state.ma.us

The Supervisor shall make a final determination on the appeal within ten (10) business days of receipt.

- B. If the requester is dissatisfied with the determination of the State Supervisor of Records, the requester may appeal to Superior Court. Alternatively, a requester may bypass the Supervisor and go directly to Superior Court.
- C. 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 <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>.