



MILFORD BOARD OF SELECTMEN

Room 11, Town Hall, 52 Main St. (Route 16), Milford, Massachusetts 01757-2679
Phone 508-634-2303 Fax 508-634-2324

Guidelines to Access Public Records

On June 3, 2016, Governor Baker signed an Act to Improve Public Records into law which went into effect on January 1, 2017. The complete text of the new law can be found at: <https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter121>

The guidelines listed below are intended to assist members of the public seeking access to public records in the custody of the Town of Milford.

How to make a Public Records Request:

- In person at the Selectmen's Office, Room 11, 52 Main Street, Milford, MA 01757.
- By first class mail addressed to the Records Access Officer (RAO) to the following address: Selectmen's Office, Room 11, 52 Main Street, Milford, MA 01757.
- By email addressed to the RAO rvillani@townofmilford.com.
- By facsimile addressed to the RAO at (508) 634-2324.
- It is strongly recommended that records requests be made in writing.
- Persons making a Public Records request in writing shall include the requestor's name and contact information so the RAO can provide the requested response.
- Requests should be as specific as possible and include the date and subject matter parameters.

Response to Public Records Request:

- RAO may ask the requester to clarify the request or provide more detailed information to help the ROA to respond to the request in a more efficient manner.
- If fees will be charged, a written fee estimate will be provided to the requester.
- Records will be provided to the requester within ten (10) business days.
- 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 RAO 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.
- 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 RAO is concerned that the TOWN 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.

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.

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.

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.

Answering Questions:

- The TOWN is not required to answer questions in response to a public records request.

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.

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:

- Many commonly requested records are already available on the Town of Milford website, examples are:
 1. Boards and Committees Agendas
 2. Boards and Committees Minutes
 3. Annual Town Reports
 4. General By-Laws
 5. Zoning By-Laws
 6. Warrants
 7. Election results
 8. Real Estate/Personal Property assessments

Exemptions:

- 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 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 www.sec.state.ma.us/pre/prepdf/guide.pdf

Fees:

- In some circumstances, the TOWN may assess a reasonable fee for the production of public records. No copying fee will be charged for records provided in electronic form.

Permissible charges include, but are not limited to:

1. Five cents (\$0.05) per page of black and white printouts or copies.
 2. Actual cost for storage devices or materials such as CDs or thumb/flash drives.
 3. Actual cost for duplication of records not susceptible to ordinary means of reproduction, such as color copies and large format plans.
 4. Postage fees where applicable, as stated above.
 5. Fees for employee time required to satisfy a public records request (see paragraph below).
- **Employee Time for Locating and Segregating Records.** If a response to a public request requires more than two hours of employee time 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).
 - **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.
 - **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:

- 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.
- 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.
- 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