CITY OF NEWBURYPORT
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 City of Newburyport.

General Information:

1. Business Hours. The regular business hours of City of Newburyport are Monday, Tuesday and Wednesday 8AM – 4PM, Thursday 8AM – 8PM and Friday 8AM – 12PM.

2. Records Access Officers. The following Records Access Officers ("RAO") have been designated:

   Primary RAO:
   Richard Jones
   City Clerk
   60 Pleasant Street
   Newburyport, MA 01950
   rjones@cityofnewburyport.com
   Phone: 978-462-4407
   Fax: 978-462-7936

   Secondary RAO:
   Matt Coogan
   Chief Administrative Officer
   60 Pleasant Street
   Newburyport, MA 01950
   mcoogan@cityofnewburyport.com
   Phone: 978-465-4412
   Fax: 978-465-4402

   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 City of Newburyport website at www.cityofnewburyport.com, and at public 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 Newburyport City Hall, 60 Pleasant Street. By first class mail addressed to the RAO at the RAO's business address set forth above;
   b. By facsimile addressed to the RAO at the business facsimile number set forth above or
   c. 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 City of Newburyport 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 City of Newburyport does not have in its custody; identifying records which the City of Newburyport 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; 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 City of Newburyport 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 request. If, due to the scope of the request, the need for redactions, or other complications, the City of Newburyport is concerned that it will not be able to provide a complete response within that time frame, the City of Newburyport may ask the requester for an extension of time to comply or petition the State Supervisor of Public Records for additional time.

14. Publicly Available Records. The City of Newburyport maintains a searchable website at www.cityofnewburyport.com where certain public records are available for inspection, downloading or printing. If a request seeks documents publicly available on the City of Newburyport 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 City of Newburyport 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 City of Newburyport is not required to answer questions in response to a public records request.

19. Supplementing Responses. The City of Newburyport 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. 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 schedule identifies various categories of records maintained by municipal departments and so-called "records in common".

Exemptions:

22. 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 Newburyport 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 http://www.sec.state.ma.us/pre/prepdf/guide.pdf.

Fees:

23. Reasonable Fees. In some circumstances, the City of Newburyport may assess a reasonable fee for the production of public records.

24. 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 16, 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.

25. 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/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).

26. **In communities with more than 20,000 residents as per the most recent Decennial US Census**

    First Two Hours. 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.

    In communities with less than or equal to 20,000 residents as per the most recent Decennial US Census

Small Municipality Exception. As of the 2010 Decennial Census, the City of Newburyport had 17,202 residents. In accordance with 950 CMR 32.07(2)(m)(2), therefore, the City of Newburyport may assess fees for all employee time, including the first two hours.

27. 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.

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

Appeals:

29. 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 CMR 32.08(1). The Supervisor shall make a final determination on the appeal within ten (10) business days of receipt.

30. 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.

31. 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.