

Town of Hinsdale Public Records Access Guidelines

Effective January 1, 2017, the Massachusetts Public Records Law, G.L.c.66 and c.4 ss7 (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 for the Town of Hinsdale.

General Information:

1. Records Access Officers are as follows:

Katherine Warden – Primary Records Access Officer – Select Board Office - General Information, Accounting Requests and any other request that can't be fulfilled by the Officers listed below.

Mary Lou Galliher – Town Clerk Office – Birth & Death Certificates, Voter Lists, Marriage Licenses, Dog & Cat Licenses, Census Information

Chief Susan Rathbun – Police Dept

Chief Larry Turner – Fire Dept

David Zagorski – Assessors Office – Property Cards, Property Maps, etc.

The Records Access Officers are available to answer questions concerning and help facilitate the fulfilling of public records requests. Contact information is available on the Town Website www.hinsdalemass.com and at public offices.

- 2.** Business hours for the Primary Records Access Officer are Monday, Tuesday, Thursday 8:00am-3:00pm, Wednesday 12:00pm -8:00pm (closed at 6:45pm on the second and fourth Wednesday evening)
- 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.
- 4.** Making Public Records Requests:

Any person may make public records request

- a. In person at Hinsdale Town Hall located at 39 South St Hinsdale MA
- b. By first class mail address to the RAO at the RAO's business address set forth above
- c. By facsimile addressed to the RAO at the Town Hall facsimile number is 413-655-8807
- d. By email addressed to the RAO at the email address located on the Town Website.
- e. 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 requestor's name and contact information so that the RAO is able to provide the required response.

5. **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.
6. **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.
7. **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:

8. **Fees.** If fees will be assessed, a written estimate of the same will be provided to the Requester.
9. **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(s) and application thereof to the requested record or portion thereof; providing a good faith fee estimate; and including a statement of appeal rights.
10. **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.
11. **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 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 State Supervisor of Public Records for additional time.

12. Publicly Available Records. The Town maintains a searchable website at www.hinsdalemass.com 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.
13. 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.
14. 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.
15. 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.
16. Answering Questions. The Town is not required to answer questions in response to a public records request.
17. 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.
18. 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:

19. Attachment "A" describes with specificity different categories of records maintained by the various [City/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".

- 20.** Central Berkshire Regional School District Records. School-related records are generally maintained by the Central Berkshire Regional School District (for grades K through 12), and requests for such records should typically be directed to the District at mfalkowski@cbrsd.org

Exemptions:

- 21.** 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 <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>.

Fees:

- 22.** Reasonable Fees. In some circumstances, the Town may assess a reasonable fee for the production of public records.
- 23.** 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.

- 24.** 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).

[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 Town had 2032 residents. See <https://www.sec.state.ma.us/census/hinsdale.htm>. In accordance with 950 CMR 32.07(2)(m)(2), therefore, the Town may assess fees for all employee time, including the first two hours.

25. 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.
26. Petition for Higher Fee. In certain circumstances, the Town 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:

27. 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.
28. 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.
29. 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>.