Public Records Compliance Policy

Adopted: June 6, 2012

George G. Slade, Jr., Chair

Peter J. Meier, Vice Chair

Judith M. Froman, Clerk

Donald J. Pickard

Michael A. Blanton
Public Records Compliance Policy

Policy Statement

It is the policy of the Town of Bourne, Massachusetts, to conform and comply with all laws and regulations regarding public records. Applicable laws and regulations include, but are not limited to, MGL Chapters 7 and 66 as amended by Chapter 121 of the Acts of 2016 and 950 CMR 32 as enacted by the Office of the Secretary of the Commonwealth.

Introduction

On June 3, 2016, Governor Baker signed into law a major revision of the Public Records Law, which takes effect on January 1, 2017. The Secretary of the Commonwealth issued final revisions of 950 CMR Section 32.00 et seq, on December 16, 2016.

The new law and proposed regulations make several important changes to how municipalities respond to public records requests. In brief, cities and town now must (1) create and appoint a new municipal position or positions: Records Access Officer; (2) respond to public records requests within 10 (ten) business days; and (3) post on their websites public records guidelines and identify all Records Access Officers with their contact information.

By adopting this document, the Town of Bourne sets out its policy and procedures for receiving, processing, and responding to public records requests and complies with the new law and regulations.

Records Access Officers

Each city, town, and district must create and maintain a new position or positions: Records Access Officer (RAO).

The new law states: "...Each agency and municipality shall designate 1 or more employees as records access officers. In a municipality, the municipal clerk, or the clerk's designees, or any designee of a municipality that the chief executive officer of the municipality may appoint, shall serve as records access officers...."

The new law states that the RAO "...shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record ... or any segregable portion of a public record, not later than 10 business days following the receipt of the request, provided that:

(i) the request reasonably describes the public record sought;
(ii) the public record is within the possession, custody or control of the agency or municipality that the records access officer serves; and
(iii) the records access officer receives payment of a reasonable fee..."
The Town of Bourne, Town Administrator, acting collectively as the chief administrative officer, adopts the following Records Access Officer (RAO) organizational chart:

- **Chief Records Access Officer**
  - Town Clerk
  - Barry Johnson

- **Records Access Officer**
  - Education
  - Wendy Chapman

- **RAO**
  - Library
  - ISWM
  - DPW
  - Recreation / Council on Aging
  - Bourne Public Schools
  - Finance
  - Engineering / Planning / Zoning / Conservation
  - Access Officer DNR
  - Inspectional Services
  - Police Dept.
  - Fire Dept.
  - Town Admin
Although the Town Clerk is designated as the default RAO, the Town Administrator has appointed other Records Access Officers, each responsible for handling public records requests relating to a specific functional area of town government. The Town Administrator has deferred to the School Committee the appointment of a Records Access Officer to handle public records requests relating to education. In addition, the Select Board has designated the Town Clerk as the Chief RAO, responsible for setting policy concerning public records matters generally and for developing appropriate guidelines and procedures for responding to public records requests. The Chief RAO will coordinate with the appointed RAOs and with custodians of public records to respond to requests for records.

Written/e-mail/facsimile requests or questions concerning public records issues should be directed to the RAO responsible for that functional area of government. The Town Clerk, as Chief RAO, can assist with determining which RAO is best to handle a specific request. In-person requests may also be made at the business addresses listed below.

### List of Records Access Officers

<table>
<thead>
<tr>
<th>RAO</th>
<th>Functional Area of Government</th>
<th>Business Address</th>
<th>Business Email / Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barry Johnson, Town Clerk</td>
<td>General Government</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:RECORDS@TOWNOFBOURNE.COM">RECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 1505</td>
</tr>
<tr>
<td>Chief Dennis Woodside</td>
<td>Police</td>
<td>175 Main Street Buzzards Bay, MA 02532</td>
<td><a href="mailto:POLICERECORDS@TOWNOFBOURNE.COM">POLICERECORDS@TOWNOFBOURNE.COM</a> 508-759-4420 EXT 205</td>
</tr>
<tr>
<td>Chief Norman Sylvester</td>
<td>Fire</td>
<td>51 Meetinghouse Lane Sagamore Beach, MA 02562</td>
<td><a href="mailto:FIERECORDS@TOWNOFBOURNE.COM">FIERECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 2</td>
</tr>
<tr>
<td>Wendy Chapman</td>
<td>Records Training &amp; Ed</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:RECORDS@TOWNOFBOURNE.COM">RECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 1505</td>
</tr>
<tr>
<td>Patrick Marshall</td>
<td>Library</td>
<td>19 Sandwich Rd Bourne, MA 02532</td>
<td><a href="mailto:LIBRARYRECORDS@TOWNOFBOURNE.COM">LIBRARYRECORDS@TOWNOFBOURNE.COM</a> 508-759-0644 EXT 107</td>
</tr>
<tr>
<td>Paula Coulombe</td>
<td>ISWM</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:ISWMLRECORDS@TOWNOFBOURNE.COM">ISWMLRECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 4</td>
</tr>
<tr>
<td>Michelle Freeman</td>
<td>DPW</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:DPWRECORDS@TOWNOFBOURNE.COM">DPWRECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 3</td>
</tr>
<tr>
<td>Krissanne Caron</td>
<td>Recreation / Council on Aging</td>
<td>239 Main Street Buzzards Bay, MA 02532</td>
<td><a href="mailto:REC-COARECORDS@TOWNOFBOURNE.COM">REC-COARECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 5302</td>
</tr>
<tr>
<td>Superintendent Steven Lamarche</td>
<td>Education</td>
<td>36 Sandwich Road Bourne, MA 02532</td>
<td><a href="mailto:SCHOOLRECORDS@TOWNOFBOURNE.COM">SCHOOLRECORDS@TOWNOFBOURNE.COM</a> 508-759-0660</td>
</tr>
<tr>
<td>Linda Marzelli</td>
<td>Finance</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:FINANCERECORDS@TOWNOFBOURNE.COM">FINANCERECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 1508</td>
</tr>
<tr>
<td>RAO</td>
<td>Functional Area of Government</td>
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<tr>
<td>Tim Lydon</td>
<td>Engineering / Planning / Zoning / Conservation</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:EPZCRECORDS@TOWNOFBOURNE.COM">EPZCRECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 1509</td>
</tr>
<tr>
<td>Tim Mullen</td>
<td>Natural Resources</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:DNRRECORDS@TOWNOFBOURNE.COM">DNRRECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 1504</td>
</tr>
<tr>
<td>Roger Laporte</td>
<td>Inspectional Services</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:INSPECTRECORDS@TOWNOFBOURNE.COM">INSPECTRECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 1512</td>
</tr>
<tr>
<td>Nancy Sundman</td>
<td>Town Administration</td>
<td>24 Perry Avenue Buzzards Bay, MA 02532</td>
<td><a href="mailto:ADMINRECORDS@TOWNOFBOURNE.COM">ADMINRECORDS@TOWNOFBOURNE.COM</a> 508-759-0600 EXT 1503</td>
</tr>
</tbody>
</table>

Requests for records may also be made “over the counter” at Town offices. Such requests may be made to and handled by the custodian of the requested records; provided, however, that if such a request will necessitate allocation of significant time or resources, or if there will be any records withheld or redactions made to the requested records, the custodian of the requested records will inform the appropriate RAO who will provide such response as may be necessary or appropriate. Any person requesting public records may seek out and contact any Town of Bourne RAO for assistance in determining the appropriate RAO or custodian of records.

For purposes of this policy, the definitions found in the Public Records Law, MGL Chapter 4, Section 7, Clause 26 and MGL Chapter 66, Section 10 and the Public Records Access Regulations, 950 CMR 32.00 et seq., shall be applicable.

If a records request includes the contents of an email account or computer network storage, the head of the department affected by the request shall be notified prior to the requests being processed and shall be involved in the process of determining any exemptions that may be applicable to the contents of the request.

**What happens when public documents are requested under the new law?**

1. Any person can make a request for public records by e-mail, by facsimile, or in writing to a Bourne Records Access Officer using the contact information listed above. Requests for copies of records or access thereto may still be made in person at the appropriate Town office.

2. A request may be made in person or by e-mail, first class mail, facsimile, or hand delivery.
• Verbal requests for public records will be acknowledged and replied to, even though a requester may not appeal a verbal request to the Supervisor of Public Records.

• A public records request form shall be available to anyone making a public records request, but neither that form, nor any other type of written request, shall be required to be completed by the requestor. Any employee accepting a verbal request shall record that request on a public request form for standardization and ease of processing purposes. See Appendix A.

3. Upon receipt of a public record request, any RAO not responsible for processing their own requests and responses (i.e. Police) shall immediately notify the Chief RAO in such time and manner as shall be established from time to time by the Chief RAO.

4. Except for the Police RAO, any RAO receiving a request for public records shall track the processing of that request using the request tracking system specified by the Chief RAO. The Police RAO shall maintain his own log of requests and make this log accessible to the Chief RAO annually, or as needed in the event of a specific record request appeal. In such event, the Chief RAO shall make timely notification to the Police RAO of the appeal.

5. The RAO may contact the requester in order to clarify a request; provided, however, that a RAO may not ask the requester the intent or purpose of the request. The RAO shall utilize their superior knowledge of the requested records to ensure that the requester and the RAO understand what is being requested, what records are available, and/or to assist the requester in narrowing or refining the request.

6. The records access officer shall provide the public records to a requester by electronic means unless the record is not available in electronic form or the requester does not have the ability to receive or access the records in a usable electronic form. The records access officer shall, to the extent feasible, provide the public record in the requester’s preferred format or, in the absence of a preferred format, in a searchable, machine readable format. The records access officer shall not be required to create a new public record in order to comply with a request, provided that furnishing a segregable portion of a public record shall not be deemed to be creation of a new record. If the public record requested is available on a public website pursuant to subsection (b) of section 19 of this chapter, section 14C of chapter 7 or any other appropriately indexed and searchable public website, the records access officer may furnish the public record by providing reasonable assistance in locating the requested record on the public website. An electronically produced document submitted to an agency or municipality for use in
deliberations by a public body shall be provided in an electronic format at the time of submission.

7. The RAO may assess a reasonable fee for the production of a public record, except those records that are freely available for public inspection (see 950 CMR 32.08); and pursuant to MGL Chapter 66, Section 10(a)(iii), the RAO may require the payment of the reasonable fee prior to production of the requested records.

- Fees shall conform to the provisions of 950 CMR 32.08(2) or other applicable law, including that black and white copies and printouts shall be charged at $0.05/page, whether one or two-sided, and the actual cost of a thumb drive or disk if the records are provided electronically other than by mail.
- It is not permissible to take a record that is electronically accessible and print/copy it and send it to the requester so that copy costs may be accessed.
- The actual cost of producing a copy of a requested record shall be assessed for records not susceptible to ordinary means of reproduction.
- With a population of 19,754 as of the decennial census, the Town of Bourne may assess fees for employee time required in connection with search, segregation, or copying of requested records (see MGL Chapter 66, Section 10(d)(iii)(B)).
- If the request for public records requires employee time for search, segregation, or copying, including employees or necessary vendors, such as legal counsel, technology and payroll consultants or others as needed, such time shall be assessed as a fee to the requester based upon the prorated hourly rate of the lowest paid employee in that office capable of doing the work. Provided further, however, that if the work needed to reply to request requires time for an employee compensated in excess of $25 per hour, the Town may petition the Massachusetts Supervisor of Records for permission to charge in excess of $25 per hour.

8. In general, subject to the exceptions set forth in MGL Chapter 66, Section 10(a), the RAO is required to respond within 10 business days of receipt of a public records request by providing access to or copies of the requested records, providing the requester with direction to access the requested records on the Town’s website, or by notifying the requester in writing that all or a portion of the records will be withheld from disclosure and/or that the records will not be provided in that timeframe, addressing the other elements required by law as set forth in MGL Chapter 66, Section 10(b). For the purpose of the response:

- Business days are Monday through Friday, 8:30 a.m. to 4:30 p.m., except for legal holidays and any day when Town Hall is closed for business due to
emergency, weather, or other events requiring the unexpected closure of business.

- Calculation of time shall begin with the first business day following the receipt of the public records request (see 950 CMR 32.03(3)).
  - Example #1: A request for public records is received by an RAO at 2:00 p.m. on a Wednesday. “Day 1” for purposes of the law will be Thursday.
  - Example #2: A public records request received after hours on a Friday. “Day 1” for the purposes of the law will be Monday (or Tuesday, if Monday is a holiday).
  - Example #3: An email requesting public records is received on Saturday. “Day 1” for the purposes of the law will be Monday (or Tuesday, if Monday is a holiday).

- The Town may refuse to provide records to any person who has not paid a reasonable estimate for provision of public records or who has failed to pay such a fee in connection with a prior request for public records.

- When the Town, within ten business days as provided by law, provides a good faith estimate of the cost to provide access to or copies of requested records, the number of business days for its response shall be stayed until the Town receives the fee. The Town shall, upon receipt of the fee, undertake the required work to comply with the requested in compliance with the applicable time frames set forth in the statute.

9. If the response to the request is anticipated to be time consuming, extensive, voluminous, or otherwise puts a burden on the Town or its departments, the RAO may request from the Massachusetts Supervisor of Records an extension of time to fulfill the request. The requester of the public records shall be notified in writing that an extension has been requested.

Record Access Officers shall meet on such dates and times, whether regularly or intermittently, as the Chief RAO shall determine. Such meetings are strictly administrative in nature and do not constitute a meeting of a public body under the Open Meeting Law. Meetings among the RAOs may occur in person, by telephone, or by email.

The Town of Bourne has custody of records as set forth in Municipal Records Retention Schedule, which can be found on the Secretary of the Commonwealth’s website on the Archives Division Page at the following link:

http://www.sec.state.ma.us/arc/arcpdf/Municipal Retention Schedule 20161109.pdf
Additional information about the Public Records Law may be found on the Secretary of the Commonwealth Public Records Division’s website at:

http://www.sec.state.ma.us/pre/preidx.htm
APPENDIX A

TOWN OF BOURNE
PUBLIC RECORDS REQUEST FORM

The Town of Bourne provides this form to assist the public in making a request for public documents or records. Use of this form is optional, and it is offered only as a convenience to the public. Any request for public records, whether verbal, written on this form, or written in some other format, will be acknowledged and replied to as per law.

Date of the Request:

Contact information:

Address:

Telephone:

Email:

Requested Record Delivery Method (Circle): e-Mail In-Person Pickup Mail

Description of the documents or records requested. Please be as specific as possible. Use additional sheets, if needed. If you are unsure of what records may exist, please call the main number at (508) 759-0600.

For office use only.

Date Received: Date Responded:

Date Record Provided: Fee Assessed:

RAO: Fee Paid:

Describe response: