TOWN OF MARION PUBLIC RECORDS ACCESS GUIDELINES

GUIDELINES ACCEPTED BY MARION BOARD OF SELECTMEN FEBRUARY 21, 2017

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 Town of Marion.

General Information:

1. Business Hours. The regular business hours of Marion Town Hall are Monday through Thursday 8:00 a.m. – 4:30 p.m., Friday 8:00 a.m. – 3:30 p.m.

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

RAO	RAO
Paul F. Dawson	Michele Bissonnette
Town Administrator	Asst. Town Clerk
2 Spring St. – Marion, MA 02738	2 Spring St. – Marion, MA 02738
pdawson@maruionma.gov	mbissonnette@marionma.gov
508-748-3520	508-748-3502
508-748-6991	508-748-3534

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 Town of Marion website at http://marionma.gov 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 Marion Town House, 2 Spring Street, Marion

    b. By first class mail addressed to the RAO at the RAO's business address set forth above;

    c. By facsimile addressed to the RAO at the business facsimile number set forth above; or;

    d. 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 Town of Marion 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 Town of Marion does not have in its custody; identifying records which the Town of Marion 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.

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 Town of Marion 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 requests. If, due to the scope of the request, the need for redactions, or other complications, the Town of Marion is concerned that it will not be able to provide a complete response within that time frame, the Town of Marion may ask the requester for an extension of time to comply or petition the Supervisor of Public Records for additional time.

14. Publicly Available Records. The Town of Marion maintains a searchable website at http://marionma.gov where certain public records are available for inspection, downloading or printing. If a request seeks documents publicly available on the Town of Marion'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.

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 Town of Marion 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 Town of Marion is not required to answer questions in response to a public records request.

19. Supplementing Responses. The Town of Marion 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. Regional School District Records. School-related records are generally maintained by the Old Rochester Regional School District for grades 7 through 12, and requests for such records should typically be directed to the District at dougwhite@oldrochester.org.

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 Town of Marion 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 www.sec.state.ma.us/pre/prepdf/guide.pdf.

Fees:

23. Reasonable Fees. In some circumstances, the Town of Marion 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 15, above); and

    e. fees for employee time required to satisfy a public records request (see paragraph 25 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 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. Small Municipality Exception. As of the 2010 Decennial Census, the Town of Marion had 4,907 residents. In accordance with 950 CMR 32.07(2)(m)(2), therefore, the Town of

Marion 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 Commonwealth's Supervisor of Records.

28. Petition for Higher Fee. In certain circumstances, the Town of Marion may petition the 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 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 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 www.sec.state.ma.us/pre/prepdf/guide.pdf