



# Town of Middleborough

## PUBLIC RECORDS ACCESS GUIDELINES

Pursuant to the provisions of Chapter 121 of the Acts of 2016 (“An Act to Improve Public Records”), significant changes were made to the Public Records Law which became effective January 1, 2017. The Supervisor of Records has promulgated regulations to implement the new law which further required the Town of Middleborough to establish the following guidelines to assist requesters in making informed requests and post such guidelines on our municipal website by July 1, 2017.

### SUMMARY OF NEW PROVISIONS

#### ▪ *Records Access Officers*

Municipalities are required to designate one or more Records Access Officers (“RAO”). The contact information for the RAO must be posted conspicuously, including on the municipality’s website. The RAO has a duty to:

- ❖ Coordinate the municipality’s response to requests for access to public records;
- ❖ Assist individuals seeking public records in identifying the records requested;
- ❖ Assist the custodian of records in preserving public records; and
- ❖ Prepare guidelines that enable requesters to make informed requests.

The Town of Middleborough Board of Selectmen designated the following *Records Access Officers* for the Town of Middleborough:

1) **Allison J. Ferreira, Town Clerk**

Town Clerk’s Office

Annex Building

20 Centre Street, 1<sup>st</sup> Floor

Middleborough, MA 02346

Phone: (508) 946-2415                      Fax: (508) 946-2308

E-mail: [clerkweb@middleborough.com](mailto:clerkweb@middleborough.com)

2) **Lance Benjamino, Fire Chief**

Fire Department

125 North Main Street

Middleborough, MA 02346

Phone: (508) 946-2461                      Fax: (508) 946-2464

E-mail: [fireweb@middleborough.com](mailto:fireweb@middleborough.com)

**3) Joseph Perkins, Police Chief**

Police Department  
99 North Main Street  
Middleborough, MA 02346  
Phone: (508) 946-2451      Fax: (508) 947-1009  
E-mail: [rao@mpdmail.com](mailto:rao@mpdmail.com)

**4) Brian E. Lynch, Superintendent of Schools**

School Department  
30 Forest Street  
Middleborough, MA 02346  
Phone: (508) 946-2000      Fax: (508) 946-2004  
E-mail: [rao@middleboro.k12.ma.us](mailto:rao@middleboro.k12.ma.us)

**5) Ann E. Gagnon, Administrative Assistant to the Superintendent**

School Department  
30 Forest Street  
Middleborough, MA 02346  
Phone: (508) 946-2000      Fax: (508) 946-2004  
E-mail: [rao@middleboro.k12.ma.us](mailto:rao@middleboro.k12.ma.us)

**6) Robert G. Nunes, Town Manager**

Middleborough Town Hall  
10 Nickerson Avenue  
Middleborough, MA 02346  
Phone: (508) 947-0928      Fax: (508) 946-2320  
E-mail: [townmanagerweb@middleborough.com](mailto:townmanagerweb@middleborough.com)

▪ ***Electronic Records***

RAOs must provide public records to a requester in an electronic format *unless* the record is not available in an electronic format or the requester does not have the ability to receive or access the records in a useable electronic format.

▪ ***Response Time***

The RAO must **permit inspection, furnish a copy of a requested public record or deny request in writing citing with specificity application of exemptions** within ***10 business days*** following receipt of the request. RAOs may petition the Supervisor of Records for an extension if they are unable to grant access to the requested public records in this time period.

▪ ***Fees***

The Supervisor of Records' Public Access Regulations allowing records custodians to charge **5 cents** for black and white paper copies or computer printouts of public records for both single and double-sided sheets was codified and will remain effective with the new law.

If a response to a public records request requires more than 2 hours of employee time, a **Municipal RAO** may assess a fee of the hourly rate of the lowest paid employee with the skills necessary to search for, compile, segregate, redact or reproduce a requested

record. However, the fee *shall not exceed \$25 an hour*, unless approved by the Supervisor of Records.

▪ **Attorney Fees**

Under the new Public Records Law, if a requester prevails in a court action against an agency or municipal RAO, the court may award the requester attorney fees or costs.

**GENERAL INFORMATION**

**Business Hours:** The regular business hours for the Town of Middleborough are: Monday – Friday 8:45 am to 5:00 pm.

\*General information about the Public Records Law and public records requests may be 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](http://www.sec.state.ma.us/pre/prepdf/guide.pdf)

A complete text of the new Public Records Law may be found at:  
<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter121>

**MAKING PUBLIC RECORDS REQUESTS**

The Town of Middleborough retained Next Request as a technology service provider to ensure compliance with the new legislation. The Next Request public records management application provides a simple interface for managing records requests, helps to improve our response times and streamline the process. The Next Request Public Records Management Application portal has been uploaded to the Home Page of the Town of Middleborough website ([www.middleborough.com](http://www.middleborough.com)). The link has been named “**Public Records Center**” and is located in the upper right hand corner of the Home Page under the Online Payment Center.



In addition to using the Next Request Public Records Management Application, any person may make a public records request:

- In person to the RAO at the business address set forth above;
- By first class mail addressed to the RAO at the RAO’s business address set forth above;
- By facsimile addressed to the RAO at the business facsimile number set forth above; or
- By e-mail addressed to the RAO at the e-mail address set forth above.

Requests are 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 a RAO, and contain the requester's name and contact information to allow the RAO to provide the required response.

Individuals making in-person requests are not 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.

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 will be to respond, as broad requests often require more extensive staff efforts to locate, review and copy all possibly responsive records.

Written requests received during normal business hours (Monday through Friday 8:45 am to 5:00 pm), 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, or legal holidays.*

The RAOs may request additional 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**

If fees will be assessed, a written estimate of the same will be provided to the requester.

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 and its application to the requested record or portion thereof; providing a good faith fee estimate; and including a statement of appeal rights.

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 Middleborough to respond fully to the request.

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 Middleborough is concerned that it will not be able to provide a complete response within that time frame, the Town of Middleborough may ask the requester for an extension of time to comply or petition the Supervisor of Public Records for additional time.

The Town of Middleborough maintains a searchable website at [www.middleborough.com](http://www.middleborough.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.

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.

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.

The Town of Middleborough 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.

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.

### **COMMONLY REQUESTED RECORDS**

The Town of Middleborough has custody of records set forth in the Municipal Retention Schedule, which may be found on the Secretary of the Commonwealth's website: [https://www.sec.state.ma.us/arc/arcpdf/Municipal\\_Retention\\_Schedule\\_20161109.pdf](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**

Some public records, or portions of records, may not be provided in response to a public records request because the Town of Middleborough 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, please refer to 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](http://www.sec.state.ma.us/pre/prepdf/guide.pdf).