

# TOWN OF PELHAM

## PUBLIC RECORDS ACCESS GUIDELINES

Effective January 1, 2017, the Massachusetts Public Records Law G.L. c.66 and c 4 SS 7(26) provides 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 Pelham.

### General Information

1. Business Hours. The regular business hours of the town offices are :  
Town Clerk Monday Wednesday and Friday 10:30 AM – 1:30 PM  
Select Board Administrative Assistant Monday Thursday 9 AM – 3 PM  
Collector Treasurer Mon, Tues and Thurs 9 AM -5 PM Wednesday 9 AM-3 PM

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

Kathleen Martell

Town Clerk

351 Amherst Road

Pelham MA 01002

[pelhamtownclerk@comcast.net](mailto:pelhamtownclerk@comcast.net)

413-253-0512

Fax 413-256-1061

Web site [TownofPelham.org](http://TownofPelham.org)

Pelham Police Department

Chief Gary Thomann

2 South Valley Road

Pelham MA 01002

PELHAM POLICE MA@YAHOO.COM

413-253-0484

web site [www.PelhamPoliceMA.com](http://www.PelhamPoliceMA.com)

Pelham Elementary School Records should be obtained through the school 413-253-3595 or website HTTP: PE.ARPS.ORG Amherst Pelham School Records should be accessed through their sites

Amherst Pelham Regional School District for grades 7-12 and requests for such records should be directed to the District. Amherst Pelham Regional Schools Central Office 170 Chestnut Street, Amherst, MA 01002 phone 413-362-1810 or [www.arps.org](http://www.arps.org)

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](http://www.sec.state.ma.us/pre/prepdf/guide.pdf).

For more information click on link to Pelham Records Access Info and Requests

**Making Public Records Requests:**

4. Public Records Requests. Any person can make a public records request:
  - a. In person at Rhodes Building 351 Amherst Road Pelham, MA 01002
  - b. By first class mail addressed to the RAO at the RAO's business address set forth above; or
  - c. By facsimile addressed to the RAO at the facsimile number 413-256-1061; or
  - d. By e-mail addressed to the RAO at [pelhamtownclerk@comcast.net](mailto:pelhamtownclerk@comcast.net)
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 e-mail and facsimile, shall be addressed/directed to an RAO, and contain the requester's name and contact information, so 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 Requests Forms shall be available in all municipal offices.
7. Specificity of Requests. To facilitate timely responses to public records record 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.

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 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 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; including a statement of appeal of 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 to respond fully to the request.
13. Time for Response. Typically, a complete response will be provided within 25 business days of receipt of 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 Records for additional time.

14. Publicly Available Records. The Town maintains a website at: [www.townofPelham.org](http://www.townofPelham.org) where certain public records are available for inspection, downloading or printing. If a requester 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.
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. Requests 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 for in advance.
17. 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.
18. Answering Questions. The Town is not required to answer questions in response to a public records request.
19. 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.
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 ss 10 public records request.

21. Attachment. "A" describes with specificity different categories of records maintained by various 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](https://www.sec.state.ma.us/arc/arcpdf/Municipal_Retention_Schedule_20161109.pdf) which identifies various categories of records maintained by municipal departments and so-called "records in common".
22. [Where the Town is part of a regional school district for some or all grades;] Regional School District Records. School-related records are generally maintained by the Amherst Pelham Regional School District for grades 7-12 and requests for such records should be directed to the District. Amherst Pelham Regional Schools Central Office at 170 Chestnut Street, Amherst, MA 01002 phone 413-362-1810 or [www.arps.org](http://www.arps.org)

### **Exemptions**

23. Exemptions/Redaction/Withholding. Some Public Records, or portions of the Town has determined such records to be exempt from disclosure pursuant to the provisions of G>L> c.4 ss7(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**

24. Reasonable Fees. In some circumstances, the Town may assess a reasonable fee for the production of public records.
25. Categories of Permissible Charges. Permissible charges include, but are not limited to:
- a. Five cents (\$.05) per page of black and white print outs or copies;
  - b. Actual cost for storage devices or materials such as CDs of thumb/flash drives;

- c. C. actual cost for duplication of records not susceptible to ordinary means of reproduction, such as color copies and large format plans;
- d. D. postage fees (where applicable; see paragraph 16, above) and
- e. 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.

26. **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 that this hourly rate shall not exceed twenty-five dollars (\$25.00) per hour, unless the Town has obtained approval from the State Supervisor of Public Records to charge a higher hourly rate. Depending on 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).
27. **Small Municipality Exception.** As of the 2010 Decennial Census the Town had 1350 residents. In accordance with 950CMR32.07(2)(m)(2), therefore the Town may assess fees for all employee time, including the first two hours.
28. **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.
29. **Petition for a higher fee.** In certain circumstances, the Town , may petition the State Supervisor of Records for permission to assess fees for employee time at a rate in excess of \$25.00.

## **Appeals**

30. 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.

31. 31. If the requester is dissatisfied with the determination of the State Supervisor of Records, the requester may appeal to the Superior Court. Alternately, a requester may bypass the Supervisor and go directly to Superior Court.

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>.

### General Listing of Pelham Information

Department or Board	General Description of Records Maintained
Administration	Board of Selectmen Minutes, Insurance, Bid information
Assessors	Land records and evaluations
Building Inspector	Permits and Building information Zoning Enforcement
Community Hall Committee	Oversees upkeep and use of Small refurbished Old School
Conservation Commission	Wetland, Wildlife and other Conservation Data
Council on Aging	Outreach Person, General Services available to Seniors
Cultural Council	Activities for sharing the Arts
Energy Committee	Green Community study Help decrease Energy Use/ Alternative Energy Sources
Finance Committee	General Budget Plans, Capital Improvement Plan OPEB information
Fire Department	Fire Call Data, Dept employees, Burning Permits

Board of Health	Well, Septic Permits; Livestock Permits; Health Issues
Highway/ DPW	Town Buildings and Road information; Driveway/ Trench Permits
Historical Commission	Historic Information, List of Historic Buildings in Pelham
Housing Committee	Plan for Housing in Pelham
Library	Books and other material for lending, Shared Meeting Space Reading and other Programs for Residents/Children
Planning Board	Land Use Study Plans for improving/Developing Pelham
Police Department	Safety and Security Patrol Firearms Permits Animal Control
School Committee	School Budget and Use recommendations Current and Future Regionalization
Town Clerk	Vital Records, All Elections, Town Meeting Minutes and vote certification, OML and Conflict of Interest, Statutory duties including By Law Submission DOR and RA Law, Dog Licenses
Treasurer/Collector	Tax Billing and Collection General Ledger for Town
Zoning Board of Appeals	By-law appeals, Home Occupation Permits



