TOWN OF ERVING

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Policy

PUBLIC RECORDS ACCESS POLICY

Approved: _____ Date: 3-6-17
Selectboard Chair, Jacob Smith

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.01 Issue Date / Effective Date

The issue date of this policy is March 6, 2017.

.02 Policy

It is the policy of the Town of Erving to conform and comply with all laws and regulations regarding public records. Applicable laws and regulations include, but are not limited to, Massachusetts General Law 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.

.03 Definitions

For the purposes of this policy, the definitions found in Public Records Law, MGL Chapter 4, Section 7, Clause 26 and MGL Chapter 66, Section 10, and the Public Records Access Regulations, 950 CMR 32et seq. shall be applicable.

.04 Records Access Officers

1. In accordance with Chapter 121 of the Acts of 2016 and 950 CMR 32, the Town of Erving must create the position of Records Access Officer(s) (RAO) who will be appointed by the Board of Selectmen.

2. Records Access Officers "...shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record...or any portion of a public records, not later than ten (10) business days following the receipt of the request, provided that:

   i. The request reasonably descripts 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..."

3. The Town of Erving Board of Selectmen adopts the following Records Access Officer organizational chart:

Chief Records Access Officer:	Town Clerk

Appointing Authority	Designated Position to Serve as Records Access Officer
Board of Assessors	Assistant Assessor
Library Trustees	Trustee Chair
Tax Collector	Tax Collector
Treasurer	Treasurer
Recreation Commission	Commission Chair
School Committee:	Union 28 Executive Secretary
Board of Selectmen:	
Police Department:	Police Chief
Fire Department:	Fire Chief
All other general government:	Administrative Coordinator

Each Records Access Officer is responsible for handling public records requests relating to a specific functional area of town government. The Board of Selectmen has appointed the Administrative Coordinator to serve as the Records Access Officer for general governmental records requests, unless a functional area has been designated to another official. The Board of Selectmen has deferred to the School Committee, Tax Collector, Board of Assessors, Treasurer, Town Clerk, Library Trustees, and Recreation Commission for the appointment of a Records Access Officer to handle public records requests relating to their functional areas. In addition, the Board of Selectmen designate the Town Clerk as the Chief Records Access Officer; responsible for setting policy concerning public records matters generally, for developing appropriate guidelines and procedures for responding to public records requests, and to maintain the log of all records requests. The Chief Records Access Officer will coordinate with the appointed Records Access Officers and with custodians of public records to respond to requests for records.

4. The Board of Selectmen will maintain a list of Records Access Officers with contact information. Public records requests can be made in writing, by e-mail, facsimile, and in person by contacting any of the Records Access Officers listed.

.05 Records Request Process

1. Any person can make a request for public records in-person, or in writing by hand delivery, by e-mail, or by facsimile to a Town of Erving Records Access Officer. Requests for copies of records or access thereto may still be made in person at the appropriate Town Office.

    i. Verbal requests for public records will be acknowledged and replied to, even though a requestor may not appeal a verbal request to the Supervisor of Public Records.
    ii. A Public Records Request form shall be available to anyone making a request, but neither the form nor any other type of written request shall be required. The form is included as Appendix A to this policy.

2. Any Records Access Officer receiving a public records request shall immediately notify the Chief Records Access Officer in such time as shall be established from time to time by the Chief Records Access Officer.

3. The Records Access Officer may contact the requestor in order to clarify a request, provided however, that a Records Access Officer may not ask the requestor what they intend to use the requested records for.

4. In general the Records Access Officer is required to respond within ten (10) business days of receipt of a public records request by providing access to or copies of the requested records, providing the requestor with direction to access the requested records on the Town's website, or by notifying the requestor 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 as required by MGL Chapter 66, Section 10 (b). For the purpose of the response:

    i. Business days are Monday through Friday, 9:00AM to 4:00 PM, except for legal holidays and any day when Town Hall is closed for business due to an emergency, weather, or other events requiring the unexpected closure of business
    ii. Calculation of time shall begin with the first business day following the receipt of the public records request (950 CMR 32.03 (2))
    iii. The Town may refuse to provide records to any person who has not paid a reasonable fee for provision of a public records or who has failed to pay such a fee in connection with a prior request for public records
    iv. When the Town, within ten (10) 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.

5. If the response to the request is anticipated to be time consuming, extensive, and otherwise puts a burden on the Town or its departments, the Records Access Officer may request an extension to fulfill the request from the Massachusetts Supervisor of Records.

.06 Fees

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

1. Fee shall conform to the provisions of 950 CMR 32.08 or other applicable law, including that black and white copies and printouts shall be charged at a rate of $0.05/ page, whether one sided or two sided, and the actual cost of a thumb driver or disk if the records are provided electronically other than by email.

2. The actual cost of producing a copy of a request record shall be assessed for records not susceptible to ordinary means of reproduction.

3. The Town may assess fees for employee time required in connection with the search, segregation, or copying of request records (MGL Chapter 66, Section 10(d) (iii) (b).

4. 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 requestor based upon a prorated hourly rate of the lowest paid employee in the office capable of doing the work. Provided further that if the work needed to reply to the request requires time for an employee compensated in excess of $25/hour, the Town may petition the Massachusetts Supervisor of Records for permission to charge in excess of $25/hour.