

**APP #25  
Town of Concord  
Public Records Law**

Following is a summary of the Public Records Law for the Commonwealth of Massachusetts, to which all Town of Concord departments, boards, and committees shall adhere. The full text of the law is incorporated by attachment to this APP. For further information, see “A Guide to the Massachusetts Public Records Law”, published by the Secretary of State’s Office, copy of which is available in the Town Clerk’s Office.

Also included in this APP are the Town’s current Records Management Procedures, adopted by the Records and Archives Committee and administered by the Town Clerk’s Office.

**PUBLIC RECORDS LAW**

**What is a Public Record?**

Every record made or received by a government entity is presumed to be a public record, unless it is subject to an exemption. This includes all records generated, received or maintained by any officer or employee of any municipality or agency of the Commonwealth, regardless of physical form or characteristics, unless the record falls under a specific statutory exemption (see below).

**Procedure for Requesting/Responding**

Requests should be made to the specific department or board that is custodian of the record(s). Such requests may be made either verbally or in writing. A custodian has up to ten (10) calendar days to respond to such requests by either providing a copy of the requested record(s), an explanation of how long it will take to respond and what it will cost the requesting party, or an explanation of why it is not public.

The Public Records Law only applies to records that are in existence and in the custody of a government agency. A custodian is not required to create records in response to a request. A custodian may create a record in response, but s/he is not required to do so. Appeals of a denial may be directed to the Supervisor of Public Records, One Ashburton Place, Room 1719, Boston, MA 02108.

**Fees**

The Town Clerk will maintain a current schedule of relevant fees for media by which public records are provided (such as photocopies, microfilm copies and computer printouts). The actual cost incurred by the custodian may be charged for records “not susceptible to ordinary means of reproduction.” In cases where the request is for a record not readily available, a custodian may also charge for the time it takes to search for the records, remove any exempt data, photocopy the record, and re-file it. The charge for this process must be the prorated hourly wage of the lowest

paid employee capable of performing the task. A custodian should provide a written “good faith” estimate for the cost of complying with a request where the total cost is expected to exceed \$10.

### **Minutes of Meetings**

Minutes of open meetings become public upon creation. There is no requirement that these minutes be approved before they are made available to the public. Boards/committees are advised to mark copies of minutes not yet approved as “draft” minutes. If the minutes are not transcribed at the time a request is made, there is no requirement that the board transcribe those minutes in response to a request. However, the audio recording of the meeting or any notes taken by the recording secretary (including shorthand notes) are public records.

### **Reason for the Request**

A custodian cannot ask a requester why s/he wants specific records or what s/he plans to do with the records once received.

### **Exemptions**

The following records are considered exempt under the Public Records Statute:

- a) specifically or by necessary implication exempted from disclosure by statute;
- b) related solely to internal personnel rules and practices of the governmental unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;
- c) personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy; **in any event, all requests for employee information shall be referred to the Human Resources Office for appropriate action.**
- d) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;
- e) note books and other materials prepared by an employee which are personal to him/her and not maintained as part of the files of the governmental unit; [Note: If such materials are physically stored in a municipal office or on Town property, they are considered to be files of the governmental unit.]
- f) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials, the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;

- g) trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this subclause shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;
- h) proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person;
- i) appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired;
- j) the names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant Ch. 140, or any firearms identification cards issued pursuant to said Ch. 140 and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns or ammunition therefor, as defined in said Ch. 140 and the addresses on said licenses or cards;
- k) (Note: this exemption was deleted in 1988)
- l) questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;
- m) contracts for hospital or related health care services between (i) any hospital, clinic or other health care facility operated by the town; and (ii) a health maintenance organization arrangement approved under Ch. 176I, a nonprofit hospital service corporation or medical service corporation, a health insurance corporation, or any legal entity that is self insured and provides health care benefits to its employees.

All questions regarding exemptions or any other area of the Public Records Law should be referred, via the department head or designee, to the Town Clerk or the Public Records Division of the Secretary of State's Office.

## **RECORDS MANAGEMENT PROCEDURES**

State law requires all committees to keep accurate written records of its public meetings. All committees, commissions, boards, sub-committees and ad-hoc committees shall appoint a clerk/secretary who will be responsible for posting meeting notices, taking minutes of all meetings, and serving as records custodian.

The records of each meeting are public records, and a copy of all non-executive session minutes must be available for public inspection. Records of any executive session remain closed to the public only as long as publication may defeat the purposes of the executive session. Minutes of meetings should include the following information:

- Date, time and place of the meeting
- Members present
- Any actions taken at the meeting, including executive sessions
- Assignments to committee members
- Statements of topics discussed
- Exact wording of all motions, including who made and seconded the motion
- The vote of each member. Those members present and not participating in the vote should be recorded as abstentions.
- Votes in executive session must be recorded in the minutes by a roll call.

Minutes may include summaries of discussions and a schedule of future meetings. Once minutes are accepted by committee vote, they become the official record of the meeting and become a permanent public record. Any secretarial notes, if not destroyed once the official minutes are accepted, are considered a public document under the public records law.

**What to do with approved minutes:**

- A courtesy copy of the minutes, upon approval, should be sent to the appointing authority (Town Manager, Board of Selectmen, or Moderator).
- The original approved set of minutes should be retained in the department office for committees with assigned staff liaisons.
- Committees without assigned staff liaisons should submit the approved minutes to the Town Clerk's Office for filing and public access.
- **At the end of each calendar year, the Chair or staff liaison of each committee should submit a complete set of committee minutes to the Town Clerk's Office for placement in the Town's Archives.**

**What about other committee records?**

Besides minutes, it is important to retain other documents that will be helpful to the Town and/or committee members in future years. In particular, it is important to retain supporting documents and correspondence for events or decisions that are of major significance to the committee or Town. These documents should be turned over periodically to the Town Clerk for placement in the Town Archives.

**Dissolution of a committee:**

Upon dissolution of a board, committee, or commission, the records should be culled, weeding out all non-permanent records. These should be organized in a reasonable and understandable manner and submitted to the Town Clerk for transfer to the Library Archives.

Attachments: MGL Chapter 66, Public Records  
MGL Chapter 4, §7, Clause 26, Public Records

## MGL CHAPTER 66. PUBLIC RECORDS

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**Section 1.** The supervisor of public records, in this chapter called the supervisor of records, shall take necessary measures to put the records of the commonwealth, counties, cities or towns in the custody and condition required by law and to secure their preservation. He shall see that the records of churches, parishes or religious societies are kept in the custody and condition contemplated by the various laws relating to churches, parishes or religious societies, and for these purposes he may expend from the amount appropriated for expenses such amount as he considers necessary. The supervisor of records shall adopt regulations pursuant to the provisions of chapter thirty A to implement the provisions of this chapter.

**Section 2.** Repealed, 1977, 80, Sec. 1.

**Section 3.** The word "record" in this chapter shall mean any written or printed book or paper, or any photograph, microphotograph, map or plan. All written or printed public records shall be entered or recorded on paper made of linen rags and new cotton clippings, well sized with animal sizing and well finished, or on one hundred per cent bond paper sized with animal glue or gelatin and preference shall be given to paper of American manufacture marked in water line with the name of the manufacturer. All photographs, microphotographs, maps and plans which are public records shall be made of materials approved by the supervisor of records. Public records may be made by handwriting, or by typewriting, or in print, or by the photographic process, or by the microphotographic process, or by any combination of the same. When the photographic or microphotographic process is used, the recording officer, in all

instances where the photographic print or microphotographic film is illegible or indistinct, may make, in addition to said photographic or microphotographic record, a typewritten copy of the instrument, which copy shall be filed in a book kept for the purpose. In every such instance the recording officer shall cause cross references to be made between said photographic or microphotographic record and said typewritten record. If in the judgment of the recording officer an instrument offered for record is so illegible that a photographic or microphotographic record thereof would not be sufficiently legible, he may, in addition to the making of such record, retain the original in his custody, in which case a photographic or other attested copy thereof shall be given to the person offering the same for record, or to such person as he may designate.

Subject to the provisions of sections one and nine, a recording officer adopting a system which includes the photographic process or the microphotographic process shall thereafter cause all records made by either of said processes to be inspected at least once in every three years, correct any fading or otherwise faulty records and make report of such inspection and correction to the supervisor of records.

**Section 4.** No ink shall be used upon any permanent public record except ink of such a standard as established and approved by the supervisor of records, and no ribbon, pad or other device used for printing by typewriting machines, or stamping pad, or any ink contained in such ribbon, pad, device, stamping pad or carbon paper, shall be used upon any permanent public record, nor shall any photographic machine or device or chemical used in connection therewith be used in making any permanent public record, except such as has been approved by the supervisor of records, who may cancel his approval if he finds that any article so approved is inferior to the standard established by him. The supreme judicial or superior court shall have jurisdiction in mandamus, on petition of the supervisor of records and pursuant to section five of chapter two hundred and forty-nine, to order compliance with the provisions of this section.

**Section 5.** County commissioners, city councils and selectmen may cause copies of records of counties, cities or towns, of town proprietaries, or proprietors of plantations, townships or common lands, relative to land situated in their county, city or town or of easements relating thereto, to be made for their county, city or town, whether such records are within or without the commonwealth, and such records within the commonwealth may be delivered by their custodians to any county, city or town for such copying. City councils and selectmen may also cause copies to be made of the records of births, baptisms, marriages and deaths kept by a church or parish in their city or town.

**Section 5A.** The records, required to be kept by sections eleven A of chapter thirty A, nine F of chapter thirty-four and twenty-three B of chapter thirty-nine, shall report the names of all members of such boards and commissions present, the subjects acted upon, and shall record exactly the votes and other official actions taken by such boards and commissions; but unless otherwise required by the governor in the case of state boards, commissions and districts, or by the county commissioners in the case of county boards and commissions, or the governing body thereof in the case of a district, or by ordinance or by-law of the city or town, in the case of municipal boards, such records need not include a verbatim record of discussions at such meetings.

**Section 6.** Every department, board, commission or office of the commonwealth or of a county, city or town, for which no clerk is otherwise provided by law, shall designate some person as clerk, who shall enter all its votes, orders and proceedings in books and shall have the custody of such books, and the department, board, commission or office shall designate an employee or employees to have the custody of its other public records. Every sole officer in charge of a department or office of the commonwealth or of a county, city or town having public records in such department or office shall have the custody thereof.

**Section 7.** Every town clerk shall have the custody of all records of proprietors of towns, townships, plantations or common lands, if the towns, townships, plantations or common lands to which such records relate, or the larger part thereof, are within his town and the proprietors have ceased to be a body politic. The state secretary, clerks of the county commissioners and city or town clerks shall respectively have the custody of all other public records of the commonwealth or of their respective counties, cities or towns, if no other disposition of such records is made by law or ordinance, and shall certify copies thereof.

**Section 8.** Every original paper belonging to the files of the commonwealth or of any county, city or town, bearing date earlier than the year eighteen hundred and seventy, every book of registry or record, except books which the supervisor of public records determines may be destroyed, every town warrant, every deed to the commonwealth or to any county, city or town, every report of an agent, officer or committee relative to bridges, public ways, sewers or other state, county or municipal interests not required to be recorded in a book and not so recorded, shall be preserved and safely kept; and every other paper belonging to such files shall be kept for seven years after the latest original entry therein or thereon, unless otherwise provided by law or unless such records are included in disposal schedules approved by the records conservation board for state records or by the supervisor of public records for county, city, or town records; and no such paper shall be destroyed without the written approval of the supervisor of records. Notwithstanding the foregoing, the register of deeds in any county may, without such written approval, destroy any papers pertaining to attachments or to the dissolution or discharge thereof in the files of his office following the expiration of twenty years after the latest original entry therein or thereon, unless otherwise specifically provided by law, and he may destroy all original instruments left for record and not called for within five years after the recording thereof.

**Section 8A.** Any provision of general or special law to the contrary notwithstanding, the clerk of any city or town, with the written approval of the supervisor of records, may destroy any index of instruments made by any clerk of such city or town under the provision of law now embodied in section fifteen of chapter forty-one or any original record made by any such clerk under any of the provisions of law now embodied in section eleven of chapter two hundred and nine, section three of chapter two hundred and fifty-five, or any similar statute; provided, that such index or record, as the case may be, has been, or shall have been, micro-photographed, and that twenty years has, or shall have expired after the making of such index or record. The micro-photograph of any index or record so destroyed shall have the same force and effect as the original index or record from which such micro-photograph was made.

**Section 9.** Every person having custody of any public record books of the commonwealth, or of a county, city or town shall, at its expense, cause them to be properly and substantially bound. He shall have any such books, which may have been left incomplete, made up and completed from the files and usual memoranda, so far as practicable. He shall cause fair and legible copies to be seasonably made of any books which are worn, mutilated or are becoming illegible, and cause them to be repaired, rebound or renovated. He may cause any such books to be placed in the custody of the supervisor of records, who may have them repaired, renovated or rebound at the expense of the commonwealth, county, city or town to which they belong. Whoever causes such books to be so completed or copied shall attest them, and shall certify, on oath, that they have been made from such files and memoranda or are copies of the original books. Such books shall then have the force of the original records.

**Section 10.** (a) Every person having custody of any public record, as defined in clause Twenty-sixth of section seven of chapter four, shall, at reasonable times and without unreasonable delay, permit it, or any segregable portion of a record which is an independent public record, to be inspected and examined by

any person, under his supervision, and shall furnish one copy thereof upon payment of a reasonable fee. Every person for whom a search of public records is made shall, at the direction of the person having custody of such records, pay the actual expense of such search. The following fees shall apply to any public record in the custody of the state police, the Massachusetts bay transportation authority police or any municipal police department or fire department: for preparing and mailing a motor vehicle accident report, five dollars for not more than six pages and fifty cents for each additional page; for preparing and mailing a fire insurance report, five dollars for not more than six pages plus fifty cents for each additional page; for preparing and mailing crime, incident or miscellaneous reports, one dollar per page; for furnishing any public record, in hand, to a person requesting such records, fifty cents per page. A page shall be defined as one side of an eight and one-half inch by eleven inch sheet of paper.

(b) A custodian of a public record shall, within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered in hand to the office of the custodian or mailed via first class mail. If the custodian refuses or fails to comply with such a request, the person making the request may petition the supervisor of records for a determination whether the record requested is public. Upon the determination by the supervisor of records that the record is public, he shall order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order, the supervisor of records may notify the attorney general or the appropriate district attorney thereof who may take whatever measures he deems necessary to insure compliance with the provisions of this section. The administrative remedy provided by this section shall in no way limit the availability of the administrative remedies provided by the commissioner of administration and finance with respect to any officer or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the supreme judicial or superior court shall have jurisdiction to order compliance.

(c) In any court proceeding pursuant to paragraph (b) there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

(d) The clerk of every city or town shall post, in a conspicuous place in the city or town hall in the vicinity of the clerk's office, a brief printed statement that any citizen may, at his discretion, obtain copies of certain public records from local officials for a fee as provided for in this chapter.

The executive director of the criminal history systems board, the criminal history systems board and its agents, servants, and attorneys including the keeper of the records of the firearms records bureau of said department, or any licensing authority, as defined by chapter one hundred and forty shall not disclose any records divulging or tending to divulge the names and addresses of persons who own or possess firearms, rifles, shotguns, machine guns and ammunition therefor, as defined in said chapter one hundred and forty and names and addresses of persons licensed to carry and/or possess the same to any person, firm, corporation, entity or agency except criminal justice agencies as defined in chapter six and except to the extent such information relates solely to the person making the request and is necessary to the official interests of the entity making the request.

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, correctional and any other public safety and criminal justice system personnel shall not be public records in the custody of the employers of such personnel and shall not be disclosed; provided, however, that such information may be disclosed to an employee organization under chapter one hundred and fifty E or to a criminal justice agency as defined in section one hundred and sixty-seven of chapter six. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons and shall not be disclosed. The home address and telephone number, or place of employment or education of victims of adjudicated crimes and of persons providing or training in family planning services and the name and home address

and telephone number, or place of employment or education of a family member of any of the foregoing shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

**Section 11.** Officers in charge of a state department, county commissioners, city councils and selectmen shall, at the expense of the commonwealth, county, city or town, respectively, provide and maintain fireproof rooms, safes or vaults for the safe keeping of the public records of their department, county, city or town, other than the records in the custody of teachers of the public schools, and shall furnish such rooms with fittings of non-combustible materials only.

**Section 12.** All such records shall be kept in the rooms where they are ordinarily used, and so arranged that they may be conveniently examined and referred to. When not in use, they shall be kept in the fireproof rooms, vaults or safes provided for them.

**Section 13.** Whoever is entitled to the custody of public records shall demand the same from any person having possession of them, who shall forthwith deliver the same to him. Upon complaint of any public officer entitled to the custody of a public record, the superior court shall have jurisdiction in equity to compel any person unlawfully having such record in his possession to deliver the same to the complainant.

**Section 14.** Whoever has custody of any public records shall, upon the expiration of his term of office, employment or authority, deliver over to his successor all such records which he is not authorized by law to retain, and shall make oath that he has so delivered them, accordingly as they are the records of the commonwealth or of a county, city or town, before the state secretary, the clerk of the county commissioners or the city or town clerk, who shall, respectively, make a record of such oath.

**Section 15.** Whoever unlawfully keeps in his possession any public record or removes it from the room where it is usually kept, or alters, defaces, mutilates or destroys any public record or violates any provision of this chapter shall be punished by a fine of not less than ten nor more than five hundred dollars, or by imprisonment for not more than one year, or both. Any public officer who refuses or neglects to perform any duty required of him by this chapter shall for each month of such neglect or refusal be punished by a fine of not more than twenty dollars.

**Section 16.** If a church, parish, religious society, monthly meeting of the people called Friends or Quakers, or any similar body of persons who have associated themselves together for holding religious meetings, shall cease for the term of two years to hold such meetings, the persons having the care of any records or registries of such body, or of any officers thereof, shall deliver all such records, except records essential to the control of any property or trust funds belonging to such body, to the custodian of a depository provided by the state organization of the particular denomination or to the clerk of the city or town where such body is situated and such clerk may certify copies thereof upon the payment of the fee as provided by clause (25) of section thirty-four of chapter two hundred and sixty-two. If any such body, the records or registries of which, or of any officers of which, have been so delivered, shall resume meetings under its former name or shall be legally incorporated, either alone or with a similar body, the clerk of such city or town or the custodian of said depository shall, upon written demand by a person duly authorized, deliver such records or registries to him if he shall in writing certify that to the best of his knowledge and belief said meetings are to be continued or such incorporation has been legally completed. The superior court shall have jurisdiction in equity to enforce this section.

**Section 17.** Except as otherwise provided by law, all public records shall be kept in the custody of the person having the custody of similar records in the county, city or town to which they originally belonged, and if not in his custody shall be demanded by him of the person having possession thereof, and shall forthwith be delivered by such person to him. Whoever refuses or neglects to perform any duty required of him by this section shall be punished by a fine of not more than twenty dollars.

**Section 17A.** The records of the department of transitional assistance, relative to all public assistance, and the records of the commission for the blind relative to aid to the blind, shall be public records; provided that they shall be open to inspection only by public officials of the commonwealth, which term shall include members of the general court, representatives of the federal government and those responsible for the preparation of annual budgets for such public assistance, the making of recommendations relative to such budgets, or the approval or authorization of payments for such assistance, or for any purposes directly connected with the administration of such public assistance or with the administration of chapter one hundred and eighteen F or with the administration of child support enforcement under chapter one hundred and nineteen A, including the use of said records in set-off debt collections under chapter sixty-two D, and including the use of said records by the department of transitional assistance, in concert with related wage reports to ascertain or confirm any fraud, abuse or improper payments to an applicant for or recipient of public assistance; and provided, further, that data from said records may be made available to representatives of the department of education and local school committees solely for the purpose of targeting school attendance areas with the largest concentrations of low income children pursuant to 20 USC 2701 *et seq.* and that such access shall be supervised by the department of transitional assistance and the department of education in accordance with an interagency agreement between said departments that safeguards confidentiality; and provided, further, that information relative to the record of an applicant for public assistance or a recipient thereof may be disclosed to him or his duly authorized agent; provided, however, that nothing in this section shall be construed to prohibit disclosure to or access by the bureau of special investigations to the department's records or files for the purposes of fraud detection and control. The commonwealth shall destroy public assistance records ten years after the discontinuance of aid granted under the provisions of chapter sixty-nine, one hundred and seventeen, one hundred and eighteen, one hundred and eighteen A, one hundred and eighteen D and one hundred and nineteen, in such manner as the commissioner or director may prescribe. (*Amended by 1995, 5, Secs. 32 and 33 eff. 2-10-95.*)

**Section 17B. Repealed, 1973, 1050, Sec. 4.**

**Section 17C.** Upon proof of failure of a governmental body as defined in section eleven A of chapter thirty A, section nine F of chapter thirty-four and section twenty-three A of chapter thirty-nine, or by any member or officer thereof to carry out any of the provisions prescribed by this chapter for maintaining public records, a justice of the supreme judicial or the superior court sitting within and for the county in which such governmental body acts or, in the case of a governmental body of the commonwealth, sitting within and for any county, shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out the provisions of this chapter. Such order may be sought by complaint of three or more registered voters, by the attorney general, or by the district attorney for the county in which the governmental body acts. The order of notice on the complaint shall be returnable no later than ten days after the filing thereof and the complaint shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of this section. In the hearing of any such complaint the burden shall be on the respondent to show by a preponderance of the evidence that the actions

complained of in such complaint were in accordance with and authorized by section eleven B of chapter thirty A, by section nine G of chapter thirty-four or by section twenty-three B of chapter thirty-nine. All processes may be issued from the clerk's office in the county in which the action is brought and, except as aforesaid, shall be returnable as the court orders.

Any such order may also, when appropriate, require the records of any such meeting of a governmental body to be made a public record unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized by section eleven B of chapter thirty A, by section nine G of chapter thirty-four or by section twenty-three B of chapter thirty-nine. The remedy created hereby is not exclusive, but shall be in addition to every other available remedy.

**Section 17D.** Records of the division of fisheries and wildlife in the department of fisheries, wildlife and recreational vehicles known as the Massachusetts natural heritage program data base shall not be public records; provided, however, that they shall be open for inspection by agents of the commonwealth and the federal government for the purposes of protecting and preserving species and subspecies of nongame wildlife and indigenous plants. Except as otherwise determined by the administrator of the said data base, site-specific rare species information shall be released only upon the receipt of a statement, in writing, by the recipient that he shall keep such information confidential.

**Section 18.** This chapter shall not apply to the records of the general court, nor shall declarations, affidavits and other papers filed by claimants in the office of the commissioner of veterans' services, or records kept by him for reference by the officials of his office, be public records.

## MGL CHAPTER 4, Section 7, Clause 26. PUBLIC RECORDS

"Public records" shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, unless such materials or data fall within the following exemptions in that they are:

- (a) specifically or by necessary implication exempted from disclosure by statute;
- (b) related solely to internal personnel rules and practices of the government unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;
- (c) personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy;
- (d) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;
- (e) notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit;
- (f) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;
- (g) trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this subclause shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;
- (h) proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person;
- (i) appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired;
- (j) the names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant to chapter one hundred and forty or any firearms identification cards issued pursuant to said chapter one hundred and forty and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns or ammunition therefor, as defined in said chapter one hundred and forty and the names and addresses on said licenses or cards;

*[There is no subclause (k).]*

- (l) questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;
- (m) contracts for hospital or related health care services between (i) any hospital, clinic or other health care facility operated by a unit of state, county or municipal government and (ii) a health maintenance organization arrangement approved under chapter one hundred and seventy-six I, a nonprofit hospital service corporation or medical service corporation organized pursuant to chapter one hundred and seventy-six A and chapter one hundred and seventy-six B, respectively, a health insurance corporation licensed under chapter one hundred and seventy-five or any legal entity that is self insured and provides health care benefits to its employees.

Any person denied access to public records may pursue the remedy provided for in section ten of chapter sixty-six.