

# OVERVIEW OF THE PUBLIC RECORDS LAW AS IT PERTAINS TO GIS DATA

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# SECRETARY OF THE COMMONWEALTH'S GUIDE TO PUBLIC RECORDS LAW

<http://www.sec.state.ma.us/pre/preidx.htm>

**INCLUDES:** commonly asked questions,  
summary of law and summary of exceptions.  
Referred to in later slides as “the guide”

# KEY PROVISION

“Every record made or received by a government entity is presumed to be a public record, unless it is subject to an exemption.”

AND

“The custodian has the burden of claiming an exemption and showing why it applies”

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# DOES THE PUBLIC RECORDS LAW APPLY TO COMPUTER RECORDS?

“Yes. The term ‘public records’ is defined by statute to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any municipality or agency in the Commonwealth.”

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# DO REQUESTS HAVE TO BE IN WRITING?

No. However, to appeal a request to which the record custodian has not responded, your original request has to have been in writing.

**AND**

“The custodian’s written response, made within ten days of the request, must be either an offer to provide the requested materials or a written denial”

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# HOW MUCH MAY A CUSTODIAN CHARGE FOR COPIES OF PUBLIC RECORDS?

“Unless specifically addressed by statute, a custodian may charge...the actual cost incurred ...for records not susceptible to ordinary means of reproduction, such as computer records, or over-sized documents”

**AND**

“The charge for this process must be the prorated hourly wage of the lowest paid employee capable of performing the task.”

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# DO I HAVE TO TELL THE CUSTODIAN WHAT I PLAN TO DO WITH THE RECORDS ONCE HE PROVIDES ME WITH COPIES?

“No. A custodian cannot ask a requestor why he or she wants specific records or what he or she plans to do with the records once received.”

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# EXEMPTIONS RELEVANT TO GIS

(This discussion starts on page 7 of the guide)

- (a) Statutory – exempt by statute
- (n) Facility drawings, blue prints, plans, policies, drawings, etc. relevant to public safety
- (o) Judicial/Law Enforcement Personnel – home contact information of personnel and their families



# **“May the City charge a fee for data which is commensurate with the City’s GIS development costs?”**

**“Government’s ability to collect, compile, maintain and disseminate public information is growing exponentially because of the computer and development of complex information systems such as GIS. The temptation for public officials to increase revenue by sale of valuable information, such as that contained in a GIS database, is understandable. However, the premise behind the Public Records Law, and other open government laws on the federal and state level, is that the public has an absolute right to access public information held by the government. The public should not be required to pay a premium for access to information which it has already paid to create and maintain through taxes.**

**I recognize that, through the Public Records Law, a commercial enterprise can obtain GIS data at a nominal cost and can then sell that information at a considerable markup. However, that fact does not justify assessing a fee for those records in excess of those permitted under the Public Records Law”**

**(From letter written in 1996 by then Acting Supervisor of Public Records Mary E. Schwind to Newton’s City Solicitor)**