

BOARD OF SELECTMEN
AGENDA
Monday, December 12, 2016

Regular Meeting –7:00 p.m.

Al Merritt Center, 600 Market Street

****NOTE****

This meeting is being recorded and transmitted via cable television.

7:00 p.m.

Pledge of Allegiance

Update from Reading Municipal Light Department

7:15 p.m.

Public hearing: Application for on-premises wine and malt restaurant license, by Skeleton Key MA, LLC, dba Skeleton Key, Raymond Weaver, Manager, 633 Market Street

Interview: Anders Youngren, Board of Appeals alternate

Common victualler license application, Aramark Services, Inc., dba Capital One Café, 600 Market Street

Proposed alcoholic beverages rules and regulations

Appointment of liquor enforcement officers

Designation of chief records access officer

Memorandum of Agreement: firefighters bargaining unit

Memorandum of Agreement: school custodians and bus drivers bargaining unit

Perley Burrill update

Police chief contract

Town administrator contract

Use of Town facilities:	Request to place menorah on common
Minutes:	None
Proclamations:	None
Administrative matters:	Signing of warrants

TOWN of LYNNFIELD PUBLIC HEARING NOTICE

APPLICATION FOR AN ON-PREMISES WINE AND MALT RESTAURANT LICENSE

The Lynnfield Board of Selectmen will hold a Public Hearing on Monday, December 12, 2016, at 7:15 p.m. in the Al Merritt Media and Cultural Center, 600 Market Street, Lynnfield MA.

The purpose of the hearing is to consider an application for an on-premises wine and malt license permit by Skeleton Key MA, LLC, dba Skeleton Key, Raymond Weaver, Manager, 633 Market Street, nine rooms in one story with one entrance and two exits, total square footage of 3,003 and a seating capacity of 34.

All interested Town citizens are invited to provide comments.

James Boudreau
Town Administrator

November 15, 2016

VIA HAND DELIVERY

Philip Crawford
Chairman, Board of Selectmen
Town of Lynnfield
55 Summer Street
Lynnfield, MA 01940

Re: Skeleton Key MA LLC/Market Street Lynnfield, Massachusetts
On-Premises Wine and Malt License

Dear Mr. Chairman:

This office and the undersigned represent Skeleton Key MA LLC (hereinafter, the "Licensee"), in connection with its request for the issuance of a Wine and Malt License for property located at 663 Market Street in Lynnfield, Massachusetts ("Premises").

The Licensee proposes the development of a unique entertainment venue which offers its patrons strategic game adventures through interactive puzzle solving. In addition, the facility would provide food and beverage services intended to complement the overall experience and foster social interaction. The future licensed premises would be comprised of a 3,003 square foot single story space within the Market Street development as shown on the enclosed floor plan. This unique proposal will further diversify the offerings within the complex providing expanded choices to future patrons.

In connection with this request, we have enclosed one original and three (3) copies of the following materials for your review:

1. Local Licensing Authority Review Record (LLA Summary Form)
2. Monetary Transmittal Form and filing Fee in the amount of \$200.00 made payable to the MA ABCC;
3. Application for Retail Alcoholic Beverage License;
4. Beneficial Interest – Individual Form;

Philip Crawford, Chairman

November 15, 2016

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5. Beneficial Interest – Organization Form;
6. CORI Authorization Form;
7. Proof of Citizenship for proposed manager of record;
8. Vote of the Corporate Board;
9. Business Structure Documents for Skeleton Key MA LLC, Skeleton Key Entertainment, LLC and Market Street Retail South LLC;
10. Supporting Financial Documentation;
11. Floor Plan;
12. Lease;
13. TIPS Certification for proposed manager of record;
14. Certified abutters lists as provided by the Town Lynnfield and Town of Wakefield Assessors office;
15. Proposed menu; and,
16. Town of Lynnfield application fee in the amount of \$50.00.

We would respectfully request that this matter be scheduled for consideration during the next available Board of Selectmen agenda which we understand to be December 12, 2016.

If you have any questions please do not hesitate to contact me

Very truly yours,



Mark T. Vaughan

MTV:mmc
Enclosures

2051087.1

cc: Ray Weaver, President and Founder, Skeleton Key MA LLC (w/enclosures)

Anders F. Youngren
78 Pine Hill Road
Lynnfield, Massachusetts 01940

Ph (617) 571-6667
AFYoungren2@gmail.com

November 25, 2016

Mr. Curtin,

I wish to express my interest in serving on the Town of Lynnfield Zoning Board of Appeals. I feel that I have the ability to assist the Town in a professional and realistic manner. My credentials are:

- BS Business Administration
- BS Civil Engineering
- Past holder of Massachusetts Real Estate License
- Working understanding of zoning ordinances and issues
- 35 years in the construction industry
 - Project management
 - Estimating

Feel free to contact me with any questions.

Sincerely,

Anders F. Youngren

Rules and Regulations for Holders of Alcoholic Beverage Licenses in the Town of Lynnfield

1. The Board of Selectmen ("the Board") is the Licensing Authority for the Town for all purposes under General Laws Chapter 138 and has sole authority for the issuance and regulation of all alcoholic beverage licenses within the Town. In order to serve the public need and to promote the public welfare by encouraging the responsible sale and service of alcoholic beverages within the Town, the Board has adopted the following Rules and Regulations for Holders of Alcoholic Beverages in the Town of Lynnfield. ("the Town's Liquor Regulations") These regulations are adopted and may be amended from time to time pursuant to the Board's authority under General Laws Chapter 138.
2. The issuance of liquor licenses and the sale of all alcoholic, wine and malt beverages in the Town is governed by the Town's Liquor Regulations, the Rules and Regulations of the Alcoholic Beverages Control Commission ("the ABCC"), and General Laws Chapter 138. The licensee is responsible for enforcing and complying with these laws and regulations. The license must be posted in a conspicuous location within the licensed premises, clearly visible and accessible to the public.
3. The licensed premises shall be subject to inspection at any time by the Lynnfield Police Department ("the Police Department"), the ABCC, or by the duly authorized agent(s) of any of them.
4. No person, firm, corporation, partnership, association, entity, or combination of persons shall obtain any interest in a liquor license without the prior approval of the Board. The actual or attempted transfer of any interest in a liquor license, or in any corporation, partnership, limited partnership, or other entity having an interest in a liquor license, except a transfer of 10% or less of the stock in a publicly traded corporation, may result in the suspension, modification, revocation or non-renewal of the license. The Board may at any time require a licensee to produce satisfactory evidence to establish that no such interest has been sold or transferred and/or that no person(s) other than those disclosed on the original license application or any renewal application have any direct or indirect financial or other beneficial interest in the License.
5. The submission of any false or materially misleading information to the Board by any licensee or person acting on behalf of the licensee in connection with any application for an original license, license renewal, special license, change of manager, transfer of location, transfer of ownership or other application, or any false or materially misleading statements made in any proceeding before the Board in connection with the liquor license, shall be a cause or ground for refusing to grant or renew the license or permit or for suspending, canceling or revoking a license or permit already granted.
6. No licensee shall operate a licensed business under any corporate or trade name other than the name under which the license was originally issued unless such change is first approved by the Board and the ABCC.
7. The licensee shall appoint and maintain a full time manager who shall at all times have full control and authority over the licensed premises. The manager must be appointed and authorized by valid corporate vote or other action by the licensed person or entity sufficient to grant the manager the necessary authority or control over the premises. The manager must be a citizen of the United States at least twenty one years old and must be of good moral character and otherwise be acceptable to the Board.
8. The manager must be actively involved in the day to day operations of the licensed business and in the case of restaurant, tavern and hotel type licenses, must be on the premises during at least fifty percent (50%) of the hours alcohol service is available. A copy of the schedule shall either be posted in the premises or immediately made available upon request of the Board or its authorized agents.
9. The manager shall not be changed without the prior approval of the Board and the ABCC. Where circumstances beyond the licensee's reasonable control prevent the licensee from obtaining approval of a

new manager in advance of the departure of the manager whose name appears on the license, the licensee must immediately notify the Board in writing of the name and address of the proposed new manager and shall thereafter promptly file an application for Change of Manager within 15 days of the manager of record's last day of work.

10. The licensee shall keep a current and accurate list of the names of all employees, including name, address, date of birth, date of hire, and position and shall make such list available for inspection upon request by the authorized agents of the Police Department and the Board.

11. An individual licensee or principal representative of the licensee, the manager of record and any person who regularly serves alcoholic beverages to the public are required to successfully complete an alcohol management or server training course approved by the Board, within three (3) months after beginning in their respective position and to maintain a current certification. The licensee shall at any time upon request of the Board, provide the Board and also the Lynnfield Police Department with the names, addresses, dates of hire and copies of training certificates of all persons subject to this section, said certificates to be available on the premises at all times.

12. Licenses are issued to serve the public convenience, and, therefore, licensees should be conducting the licensed business on all days authorized by the licensing authority. Any licensee who permanently ceases its business operation shall immediately surrender its license and physically deliver the license to the Board. If the licensee intends to suspend business operations for a temporary period, it shall first provide the Board with notice at least ten days prior to the anticipated closing date stating the reason(s) for the closing and the estimated length of the closing. If the temporary closing is the result of unforeseen circumstances such as fire, flood, or similar casualty, notice shall be given within ten (10) days after the date of the casualty.

13. The licensed premises shall at all times be subject to inspection by ~~the Board~~, the Police Department, and their authorized agents. The licensee and manager shall fully cooperate with such agents and shall not in any way hinder or delay access to the licensed premises or otherwise interfere with any agent in the conduct of any inspection or investigation. The licensee must maintain and promptly make available to the Board and its authorized agents for inspection and copying, records of all transactions involving the sale or purchase of alcoholic beverages. If such records are maintained at a location other than the licensed premises, the licensee shall provide written notice to the Board specifying the location and any change.

14. No licensee or manager shall permit any part of the licensed premises to exceed its maximum capacity as stated on the Certificate of Occupancy. All establishments licensed for the on premises consumption of alcohol shall have a reliable method for determining when the maximum capacity of the licensed premises or any part of the licensed premises is reached.

15. The sale, storage, service, dispensing, distribution, delivery, and/or consumption of alcoholic beverages is strictly limited to those areas of the premises which are specified in the description of the premises as shown on the license. Unless specifically approved by the Board, areas such as patios, decks, outside seating areas, roofs, courtyards, and/or other exterior extensions of a building are not part of the licensed premises.

16. No physical alteration, the effect of which would be to constitute a change in the description of the licensed premises as shown on the license, shall be made without the prior written approval of the Board. This includes any alterations involving the installation, removal or relocation of any interior walls, doorways, stairways, or other structural components within the licensed premises or any modification that increases the maximum seating capacity.

17. The kitchen and premises of any licensed establishment must be kept clean, neat and sanitary, to the satisfaction of the Board and the Lynnfield Board of Health, or to the duly authorized agent(s) of either of them.

18. The licensee and the manager shall at all times maintain order and decorum within the licensed premises and shall not permit any disorder, disturbance, lewdness, prostitution, illegal gaming, unlicensed entertainment, the sale or use of illegal drugs or controlled substances as defined by G.L. c. 94C, or illegality of any kind to take place in, upon, or around the licensed premises (including the parking lot). The licensee shall be responsible for such conduct, whether present at the time of the conduct or not. The manager is required to immediately notify the Police Department when a disturbance resulting in the physical injury to any person occurs on the licensed premises or in the parking lot or other exterior area immediately adjacent to licensed premises including, sidewalks and driveways.

19. With the exception of establishments licensed as package stores, no licensee shall sell any alcoholic beverage intended for off-premises consumption or allow any person to transport any alcoholic beverage from the licensed premises. This regulation shall not prevent the holder of a restaurant or hotel type license from permitting a patron to remove a partially consumed bottle of wine from the premises provided such licensee conforms to Regulation # 21 below and the regulations promulgated by the ABCC.

20. The holder of a restaurant or hotel type alcoholic beverages license may permit a patron who purchases a bottle of wine with a meal to take from the licensed premises the unconsumed portion of one bottle of wine, provided that

- a. The licensee securely reseals the bottle
- b. The bottle is placed in a one-time use tamper-proof transparent bag that insures that the patrons cannot gain access to the bottle while in transit after the bag is sealed.
- c. The bag is securely sealed
- d. A receipt showing the purchase of the meal and the bottle of wine is provided to the patron and affixed to the bag.

21. The sale or delivery of alcoholic beverages to an intoxicated person is prohibited.

22. The sale or delivery of alcohol to a person under the age of twenty one years is prohibited.

23. The licensee must maintain and keep current all licenses, permits, certificates, and approvals required for the operation of the licensed business. If any such license, permit, certificate, or approval issued by a state or local authority is revoked, suspended, or not renewed for any reason, the licensee must notify the Board in writing.

24. The Board shall have the right and authority to order any licensee to engage as many private detail police officers from the Police Department which in the Board's judgment are necessary to maintain law and order upon the licensed premises and the areas immediately adjacent to or serving the licensed premises, including the parking lots.

25. No licensee shall make any distinction, discrimination, or restriction of service, access, or treatment on account of race, color, religious creed, national origin, sex, sexual orientation or ancestry. The service, sale, delivery and consumption of alcohol on the licensed premises is strictly limited to the established hours for the service of alcoholic beverages as stated on the license. No licensee, manager, bartender, or server may solicit or accept any order for alcoholic beverages within fifteen minutes prior to the hour stated on the license for cessation of liquor service. ("the Closing Hour") All bottles, glasses, beverage cans, and other beverage containers must be cleared from the tables and bars within 30 minutes of the Closing Hour. No persons other than the licensee, the manager and/or the employees may be in the licensed premises 45 minutes after the Closing Hour.

26. Employees of the licensed establishment may remain or enter upon the licensed premises outside of the established hours of operation while actually engaged in cleaning, opening, closing, or preparing for the next day's business, but they may not remain upon the licensed premises any longer than necessary to complete their work. No licensee, manager, server, bartender, or other person employed by the

licensee, shall consume any alcoholic beverage on the licensed premises either while on duty or at any time before or after the established hours of operation as stated on the license.

27. In any instance when it is necessary for the licensee's employees to remain on the licensed premises for more than sixty (60) minutes after the established closing hour, the licensee or manager shall notify the Police Department. Notice must be given not later than sixty (60) minutes after the established closing hour and shall include the names of the employee(s), the reason(s) why the employee(s) will be on the premises, and an estimate as to how long the employee(s) will be on the licensed premises.

28. The Chief of Police shall have the right and authority to order any Licensee to engage as many Detail Police Officers from the Lynnfield Police Department as shall, in the Chief's judgment, be necessary to maintain law and order upon the premises of the Licensee (including, without limitation, the parking lot.)

A Licensee shall notify the Chief of Police of any special events or circumstances whereby the licensee may reasonably anticipate hosting either; 1) A single gathering of more than 400 patrons at one time or; 2) multiple gatherings collectively amounting to more than 750 patrons simultaneously, when said event occurs after 6PM on a weeknight or 4pm on a weekend or holiday. Such notification shall be made so that the Chief of Police can evaluate the need of a police detail assignment, taking into account various relevant factors, and if not needed, to notify Police Shift Commanders as may be necessary.

The grant of a license to the Licensee of such an event by the Board of Selectman shall be deemed notice of such event(s).

Following any such notice, the Chief of Police's evaluation may include a review of security practices with the Licensee, including requesting of the licensee the assignment of any police detail within the licensed premise for such event and/or circumstances. If the Licensee disagrees with any such request, the Licensee and the Chief of Police shall meet prior to the event to discuss/review appropriate security procedures. Should the Chief of Police assign a Police Detail under section 28 of these regulations and the Licensee disagrees, the Licensee may appear in front of the Board of Selectman, who shall review and establish appropriate public safety measures for such events. Nothing in these liquor regulations shall supersede conditions imposed by the Board of Selectman as part of conditions for a Liquor License.

29. Any infraction of the Town's Liquor Regulations, Regulations of the Alcoholic Beverages Control Commission, and/or General Laws Chapter 138 **with the exception of sale and or service of alcoholic beverages to a minor**, may be Grounds for action by the Board including the modification, suspension, revocation, non-renewal or cancellation of a license. In determining the appropriate action in any given case the Board will consider all relevant factors including the licensee's prior record, the nature of the offense, and other aggravating or mitigating circumstances. The following schedule of recommended discipline is a guideline intended to illustrate the range of disciplinary action that the Board might impose for certain violations. The Board is not limited by these guidelines and may impose greater or less discipline as it sees fit.

1st Violation – Letter of reprimand and/or suspension of license up to 3 days
Optional: With liquor closing hours of 11:00pm for 10 days

2nd Violation – Suspension of license from 3 to 10 days
With liquor closing hours of 11:00pm for 30 days

3rd Violation – Suspension of license from 10 to 30 days
With liquor closing hours of 11:00pm for 30 days

4th Violation – Revocation of license

For the purpose of counting Violations, prior actions taken by the Alcoholic Beverage Control Commission taken against the license holder will be counted as Violation(s) that will be applied to guidelines above

For the purpose of counting a Violation: if it is found that multiple Violations are found in the same business day (opening time until 2 hours after closing) such will be counted as a single Violation when determining the number of violations to be counted and applied to the guidelines above.

If the Board finds at its hearing that the license holder's actions were grievous, the Board may add an additional Violation to the number of Violations being applied to these guidelines.

Only Violations that have occurred in the past 3 years (counted from the date of the last violation) will be counted.

30. Sale and or service of alcoholic beverages to a minor, may be Grounds for action by the Board including the modification, suspension, revocation, non-renewal or cancellation of a license. In determining the appropriate action in any given case the Board will consider all relevant factors including the licensee's prior record, the nature of the offense, and other aggravating or mitigating circumstances. The following schedule of recommended discipline is a guideline intended to illustrate the range of disciplinary action that the Board might impose for certain violations. The Board is not limited by these guidelines and may impose greater or less discipline as it sees fit.

1st Violation - Suspension of license up to six days on dates to occur on three weekend periods. Each two day period shall be a Friday and Saturday continuing through 1:00 A.M. on the following Sunday.

2nd Violation – Suspension of license up to 12 days on six weekends in the same manner as outlined in the preceding paragraph.

3rd Violation – Revocation of license.

Each minor involved in a single incident shall be considered a separate violation; i.e. the suspension doubles when two minors are involved, triples when there are three minors involved, etc.

31. The Licensing Authority reserves the right to modify or amend the above Rules and Regulations, or to adopt such other, additional Rules and Regulations as the said Authority may deem necessary.

Part I	ADMINISTRATION OF THE GOVERNMENT
Title X	PUBLIC RECORDS
Chapter 66	PUBLIC RECORDS
Section 10	PUBLIC INSPECTION AND COPIES OF RECORDS; PRESUMPTION; EXCEPTIONS

[Text of section effective until January 1, 2017. For text effective January 1, 2017, see below.]

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 commissioner of the department of criminal justice information services, the department of criminal justice information services 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, department of children and families, department of correction and any other public safety and criminal justice system personnel, and of unelected general court personnel, shall not be public records in the custody of the employers of such personnel or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed, but such information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180 or to a criminal justice agency as defined in section 167 of chapter 6. 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 or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed. The home address and telephone number or place of employment or education of victims of adjudicated crimes, of victims of domestic violence 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.

Chapter 66: Section 10. Inspection and copies of public records; requests; written responses; extension of time; fees

[Text of section as recodified by 2016, 121, Sec. 10 effective January 1, 2017 applicable as provided by 2016, 121, Sec. 18. See 2016, 121, Sec. 22. For text effective until January 1, 2017, see above.]

Section 10. (a) A records access officer appointed pursuant to section 6A, or a designee, shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record as defined in clause twenty-sixth of section 7 of chapter 4, or any segregable portion of a public record, not later than 10 business days following the receipt of the request, provided that:

- (i) the request reasonably describes 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 as set forth in subsection (d).

A request for public records may be delivered to the records access officer by hand or via first class mail at the record officer's business address, or via electronic mail to the address posted by the agency or municipality that the records access officer serves.

(b) If the agency or municipality does not intend to permit inspection or furnish a copy of a requested record, or the magnitude or difficulty of the request, or of multiple requests from the same requestor, unduly burdens the other responsibilities of the agency or municipality such that the agency or municipality is unable to do so within the timeframe established in subsection (a), the agency or municipality shall inform the requestor in writing not later than 10 business days after the initial receipt of the request for public records. The written response shall be made via first class or electronic mail and shall:

- (i) confirm receipt of the request;
- (ii) identify any public records or categories of public records sought that are not within the possession, custody, or control of the agency or municipality that the records access officer serves;
- (iii) identify the agency or municipality that may be in possession, custody or control of the public record sought, if known;
- (iv) identify any records, categories of records or portions of records that the agency or municipality intends to withhold, and provide the specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based, provided that nothing in the written response shall limit an agency's or municipality's ability to redact or withhold information in accordance with state or federal law;
- (v) identify any public records, categories of records, or portions of records that the agency or municipality intends to produce, and provide a detailed statement describing why the magnitude or difficulty of the request unduly burdens the other responsibilities of the agency or municipality and therefore requires additional time to produce the public records sought;
- (vi) identify a reasonable timeframe in which the agency or municipality shall produce the public records sought; provided, that for an agency, the timeframe shall not exceed 15 business days following the initial receipt of the request for public records and for a municipality the timeframe shall not exceed 25 business days following the initial receipt of the request for public records; and provided further, that the requestor may voluntarily agree to a response date beyond the timeframes set forth herein;
- (vii) suggest a reasonable modification of the scope of the request or offer to assist the requestor to modify the scope of the request if doing so would enable the agency or municipality to produce records sought more efficiently and affordably;
- (viii) include an itemized, good faith estimate of any fees that may be charged to produce the records; and
- (ix) include a statement informing the requestor of the right of appeal to the supervisor of records under subsection (a) of section 10A and the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court under subsection (c) of section 10A.

(c) If the magnitude or difficulty of a request, or the receipt of multiple requests from the same requestor, unduly burdens the other responsibilities of the agency or municipality such that an agency or municipality is unable to complete the request within the time provided in clause (vi) of subsection (b), a records access officer may, as soon as practical and within 20 business days after initial receipt of the request, or within 10 business days after receipt of a determination by the supervisor of public records that the requested record constitutes a

public record, petition the supervisor of records for an extension of the time for the agency or municipality to furnish copies of the requested record, or any portion of the requested record, that the agency or municipality has within its possession, custody or control and intends to furnish. The records access officer shall, upon submitting the petition to the supervisor of records, furnish a copy of the petition to the requestor. Upon a showing of good cause, the supervisor of records may grant a single extension to an agency not to exceed 20 business days and a single extension to a municipality not to exceed 30 business days. In determining whether the agency or municipality has established good cause, the supervisor of records shall consider, but shall not be limited to considering:

- (i) the need to search for, collect, segregate or examine records;
- (ii) the scope of redaction required to prevent unlawful disclosure;
- (iii) the capacity or the normal business hours of operation of the agency or municipality to produce the request without the extension;
- (iv) efforts undertaken by the agency or municipality in fulfilling the current request and previous requests;
- (v) whether the request, either individually or as part of a series of requests from the same requestor, is frivolous or intended to harass or intimidate the agency or municipality; and
- (vi) the public interest served by expeditious disclosure.

If the supervisor of records determines that the request is part of a series of contemporaneous requests that are frivolous or designed to intimidate or harass, and the requests are not intended for the broad dissemination of information to the public about actual or alleged government activity, the supervisor of records may grant a longer extension or relieve the agency or municipality of its obligation to provide copies of the records sought. The supervisor of records shall issue a written decision regarding a petition submitted by a records access officer under this subsection within 5 business days following receipt of the petition. The supervisor of records shall provide the decision to the agency or municipality and the requestor and shall inform the requestor of the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court.

(d) A 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. The reasonable fee shall not exceed the actual cost of reproducing the record. Unless expressly provided for otherwise, the fee shall be determined in accordance with the following:

- (i) the actual cost of any storage device or material provided to a person in response to a request for public records under subsection (a) may be included as part of the fee, but the fee assessed for standard black and white paper copies or printouts of records shall not exceed 5 cents per page, for both single and double-sided black and white copies or printouts;
- (ii) if an agency is required to devote more than 4 hours of employee time to search for, compile, segregate, redact or reproduce the record or records requested, the records access officer may also include as part of the fee an hourly rate equal to or less than the hourly rate attributed to the lowest paid employee who has the necessary skill required to search for, compile, segregate, redact or reproduce a record requested, but the fee (A) shall not be more than \$25 per hour; (B) shall not be assessed for the first 4 hours of work performed; and (C) shall not be assessed for time spent segregating or redacting records unless such segregation or redaction is required by law or approved by the supervisor of records under clause (iv);

(iii) if a municipality is required to devote more than 2 hours of employee time to search for, compile, segregate, redact or reproduce a record requested, the records access officer may include as part of the fee an hourly rate equal to or less than the hourly rate attributed to the lowest paid employee who has the necessary skill required to search for, compile, segregate, redact or reproduce the record requested but the fee (A) shall not be more than \$25 per hour unless such rate is approved by the supervisor of records under clause (iv); (B) shall not be assessed for the first 2 hours of work performed where the responding municipality has a population of over 20,000 people; and (C) shall not be assessed for time spent segregating or redacting records unless such segregation or redaction is required by law or approved by the supervisor of records under clause (iv);

(iv) the supervisor of records may approve a petition from an agency or municipality to charge for time spent segregating or redacting, or a petition from a municipality to charge in excess of \$25 per hour, if the supervisor of records determines that (A) the request is for a commercial purpose; or (B) the fee represents an actual and good faith representation by the agency or municipality to comply with the request, the fee is necessary such that the request could not have been prudently completed without the redaction, segregation or fee in excess of \$25 per hour and the amount of the fee is reasonable and the fee is not designed to limit, deter or prevent access to requested public records; provided, however, that:

1. in making a determination regarding any such petition, the supervisor of records shall consider the public interest served by limiting the cost of public access to the records, the financial ability of the requestor to pay the additional or increased fees and any other relevant extenuating circumstances;
2. an agency or municipality, upon submitting a petition under this clause, shall furnish a copy of the petition to the requestor;
3. the supervisor of records shall issue a written determination with findings regarding any such petition within 5 business days following receipt of the petition by the supervisor of public records; and
4. the supervisor of records shall provide the determination to the agency or municipality and the requestor and shall inform the requestor of the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court;

(v) the records access officer may waive or reduce the amount of any fee charged under this subsection upon a showing that disclosure of a requested record is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requestor, or upon a showing that the requestor lacks the financial ability to pay the full amount of the reasonable fee;

(vi) the records access officer may deny public records requests from a requestor who has failed to compensate the agency or municipality for previously produced public records;

(vii) the records access officer shall provide a written notification to the requester detailing the reasons behind the denial, including an itemized list of any balances attributed to previously produced records;

(viii) a records access officer may not require the requester to specify the purpose for a request, except to determine whether the records are requested for a commercial purpose or whether to grant a request for a fee waiver; and

(ix) as used in this section "commercial purpose" shall mean the sale or resale of any portion of the public record or the use of information from the public record to advance the requester's strategic business interests in a manner that the requester can reasonably expect to make a profit, and shall not include gathering or reporting

news or gathering information to promote citizen oversight or further the understanding of the operation or activities of government or for academic, scientific, journalistic or public research or education

(e) A records access officer shall not charge a fee for a public record unless the records access officer responded to the requestor within 10 business days under subsection (b).

(f) As used in this section, "employee time" means time required by employees or necessary vendors, including outside legal counsel, technology and payroll consultants or others as needed by the municipality.