

**BOROUGH OF BOYERTOWN, BERKS COUNTY, PENNSYLVANIA**

**POLICY AND REGULATIONS FOR REQUESTS FOR ACCESS TO PUBLIC RECORDS UNDER THE OPEN RECORDS LAW**

Introduction.

The Right to Know Law, 65 P.S. §§ 67.101-67.3104, requires that every political subdivision establish a written policy for handling requests for access to public records. This policy provides the regulations and procedure for requests for access to public records maintained by the Borough of Boyertown, Berks County, Pennsylvania (“Borough”).

Definitions.

**AGENCY.** A Commonwealth agency, a local agency, a judicial agency or a legislative agency.

**PUBLIC RECORD.** A record of a commonwealth or local agency that is not exempt under the Open Records Law.

**RECORD.** Information regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

**REQUESTOR.** A person who is a legal resident of the United States and requests a Record pursuant to this Policy. The term includes an agency.

**RESPONSE.** Access to a Record or an Agency’s written notice granting, denying, or partially granting and partially denying access to a Record.

Requests for Public Records.

1. All requests shall be made in writing on the form provided by the Borough or the Pennsylvania Office of Open Records for such purpose. The form shall be made available at the Borough Hall during the Borough’s regular business hours. The request form may be submitted in person, by mail or by fax. The request shall be addressed to:

**Open Records Officer  
Borough Hall  
100 S. Washington Street  
Boyertown, PA 19512**

There is no limit on the number of Public Records requested.

2. Where applicable, the Requestor will be required to pay a fee for copying, postage, and/or certification. The list of fees is available at the Borough Hall. The fees may be modified as necessary from time to time by the Boyertown Borough Council (“Council”). Fees may be waived if the Borough deems it in the public interest to waive any applicable fees. Prepayment of fees estimated to be in excess of One-Hundred Dollars (\$100.00) is required.

3. Upon receipt of a request during normal business hours, the Borough must respond to the request within 5 business days. Failure of the Borough to respond within 5 days shall be deemed a denial of the request and the Requestor may then file a letter of appeal as described herein.

4. The Borough may extend the response time to a request beyond 5 days for the following reasons:

- (a) The request requires redaction of a Public Record;
- (b) The request requires retrieval of records stored offsite;
- (c) Bona fide and specific staffing limitations inhibit a timely response;
- (d) Legal review is needed to determine if the request involves a Public Record;
- (e) The Requestor has not complied with this Policy;
- (f) The Requestor fails or refuses to pay the applicable fees.
- (g) The extent or nature of the request precludes a response within the required time period.

In the event an extension is required, the Borough must provide a written explanation to the Requestor of the reason(s) for the extension of up to 30 days, a reasonable date that a response is expected to be provided, and an estimate of the fees owed. Additional time extensions may be made with the consent of the requester.

5. Public Records are made available for review at Borough hall during the Borough’s regular business hours. A Public Record will be provided to a Requestor in the form requested - paper or electronic - if it exists in both forms; otherwise, it will be provided in the form in which it exists. The Requestor shall not be permitted to review documents in private, but only in the presence of a Borough employee. If a Public Record is available only by electronic means, the Borough shall provide access to inspect such Public Record at the Borough Hall. The

Requestor will be given a reasonable time, during the Borough's regular business hours, to review the Public Records requested, given any limitations in Borough staffing and time for copying any such Records. If the Requestor cannot complete the review of the requested Public Records within the allotted time, the review may continue on the same basis on another day during the Borough's regular business hours.

6. Copies of Public Records requested will be made available upon request and upon payment of the applicable copying fee. Any Public Record maintained by the Borough only in electronic form will be made available in paper upon request and for the applicable copying fee.

#### Denial of a Request for Public Records.

1. If the Borough denies a written request for access to a Public Record, in whole or in part, the Borough shall issue a written response to the Requestor.
2. The Borough's written denial shall include the following:
  - (a) A description of the Record requested.
  - (b) The specific reasons for the denial, including a citation of supporting legal authority.
  - (c) The typed or printed name, title, Borough address, Borough telephone number and signature of the Borough Open Records Officer, on whose authority the denial is issued.
  - (d) The date of the response.
  - (e) A copy of the appeal procedure included in this Policy.

#### Appeal Procedure for Denial of a Request for Access to a Public Record

1. If a written request for access is denied or deemed denied, the Requestor may file a letter of appeal with the Pennsylvania Office of Open Records for access to the requested Record within 15 days of the mailing date of the Borough Open Records Officer's response or within 15 days of a deemed denial.
2. The letter of appeal shall state the reasons the Requestor believes that the record is a Public Record, and shall address the reasons, if any, by which the Borough has delayed or denied the request.

3. Unless the Requestor agrees otherwise, the designated appeals officer at the Pennsylvania Office of Open Records shall make a final determination regarding the Requestor's appeal within 30 days of the date of the Requestor's letter of appeal.

4. The appeals officer may conduct a hearing prior to issuing a final determination regarding Requestor's appeal.

5. If the appeals officer fails to issue a final determination within 30 days, the appeal is deemed denied.

6. In the event that the appeals officer makes a final determination upholding the denial of access to Public Records, the Requestor may file a petition for review with the Berks County Court of Common Pleas within 30 days of the date of mailing of the denial by the Pennsylvania Office of Open Records appeals officer.

**FEE SCHEDULE FOR REQUESTS FOR PUBLIC RECORDS**

<u>Type of Fee</u>	<u>Fee</u>
Postage	Actual cost of mailing
Copies	\$0.25/page
Certification	\$2.50/each document
Electronic Records	N/A

Prepayment will be required if the fees are expected to exceed \$100.00



**STANDARD RIGHT-TO-KNOW REQUEST FORM**

**DATE REQUESTED:** \_\_\_\_\_

**REQUEST SUBMITTED BY:**      E-MAIL      U.S. MAIL      FAX      IN-PERSON

**NAME OF REQUESTOR :** \_\_\_\_\_

**STREET ADDRESS :** \_\_\_\_\_

**CITY/STATE/COUNTY (Required):** \_\_\_\_\_

**TELEPHONE (Optional):** \_\_\_\_\_

**RECORDS REQUESTED:**

*\*Provide as much specific detail as possible so the agency can identify the information.*

**DO YOU WANT COPIES?** YES or NO

**DO YOU WANT TO INSPECT THE RECORDS?** YES or NO

**DO YOU WANT CERTIFIED COPIES OF RECORDS?** YES or NO

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**RIGHT TO KNOW OFFICER:**

**DATE RECEIVED BY THE AGENCY:**

**AGENCY FIVE (5)-DAY RESPONSE DUE:**

*\*\*Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*



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