

## **BOROUGH OF MILTON OPEN RECORDS POLICY**

The purpose of this policy is to assure compliance with Act 3 of 2008, The Pennsylvania Right-to-Know Law, as amended; to provide access to public records of the Milton Borough to preserve the integrity of Borough's records; and to minimize the financial impact to the residents of the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

It is the policy of the Borough to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the Borough. The Borough designates the Borough Manager as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

- A. In the absence of the Borough Manager, the Borough Secretary/Treasurer shall serve as the Borough's Open Records Officer.
- B. The Borough Manager is responsible for minimizing, where possible, the financial impact to the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.
- C. All requests for public records of the Borough under this policy shall be specific in identifying and describing each public record requested. In no case shall the Borough be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Borough does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and include the date of the request; requester's name, address and telephone number; certification of United States residency; signature of requester; and if duplication is requested, appropriate payment.
- D. The designated employee shall make a good faith effort to determine whether each record requested is a public record.
- E. The Borough shall facilitate a reasonable response to a request for the Borough's public records. In no case is the Borough expected to provide additional staff to respond to the request, but will respond in a manner consistent with the Borough's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.
- F. The designated employee shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Borough does not respond within five (5) business days of receipt thereof, the request is deemed denied.
- G. The response provided by the Borough shall consist of (1) approval for access to the public record; (2) denial of access to the record requested; or (3) notice of further review of the request by the designated employee or legal counsel, with a date specified for a decision.

If the request is denied, the response shall include the following information: (1) description of record requested; (2) reason, with legal citation, for denial; (3) name, title, address, telephone number and signature of the open records officer that denied the request; (4) date of response; and (5) the procedure to appeal the denial.

- H. If access to the public record requested is approved, the public record shall be available for access during the regular business hours (M-F 8:00 – 4:00) of the Borough. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect Borough public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.
- I. Fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records.
- J. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Borough resources.
- K. If the request is being reviewed, the notice provided by the Borough shall be in writing and include the reason for the review and the expected response date, which shall be within thirty (30) days of the notice of review. If the Borough does not respond within thirty (30) days thereof, the request is deemed denied. Review of the request is limited to situations where:
  - (1) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
  - (2) The record requires retrieval from a remote location;
  - (3) A timely response cannot be accomplished due to staffing limitations;
  - (4) A legal review is necessary to determine whether the record requested is a public record;
  - (5) The requester has failed to comply with the Borough's policy and procedure requirements;
  - (6) The requester refuses to pay the applicable fees; or
  - (7) The extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed above applies, the Borough shall send written notice to the requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided with an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the extension if the agency has not provided a response by that date.

- L. If access to the record requested is denied, the notice provided by the Borough shall be in writing as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate Borough Records".

- M. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth's Office of Open Records within fifteen (15) business days of the mailing date of the Borough's notice of denial, or within fifteen (15) days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request.
- N. Within thirty (30) days of the mailing date of the final determination of the appeals officer, the requester or Borough may file a petition for review or other document as required by rule of court with the Court of Common Pleas of Northumberland County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review under this section shall stay the release of documents until a decision is issued.
- O. This policy shall be available for review at the Borough office.

MILTON BOROUGH

Standard Right-to-Know Request Form

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

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

NAME OF REQUESTER: \_\_\_\_\_

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

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

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

RECORDS REQUESTED:

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DO YOU WANT COPIES:  YES  NO

DO YOU WANT TO INSPECT THE RECORDS:  YES  NO

DO YOU WANT CERTIFIED COPIES OF RECORDS:  YES  NO

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 requester 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.)*