

## CHAPTER 20

### PUBLIC RECORDS

#### Part 1 Access Policy

- §101. Purpose
- §102. Public Records
- §103. Public-Records Officer
- §104. Inspection
- §105. Requests
- §106. Fees
- §107. Redaction
- §108. Response
- §109. Appeal Process
- §110. Other Applicable Policies
- §111. Repealer

#### **SCHEDULE "A" FEES REQUEST FORM**

## CHAPTER 20

### PUBLIC RECORDS

#### Part 1

#### Access Policy

**§101. Purpose.** The Borough of White Haven has adopted this policy so that the public fully understands and is afforded the opportunity to inspect and obtain copies of public records of the Borough, and to meet the requirements of the Pennsylvania Right to Know Law (Act 3 of 2008, effective January 1, 2009), which law governs the rights of the public to inspect and obtain copies of public records.

EDITOR'S NOTE: Resolution No. 9-2004, 10/18/2004, Sec. 1-10 has been repealed in part and replaced with new provisions to comply with the new Pennsylvania Right to Know Law, Act 3 of 2008).

**§102. Public Record.** Is defined under the Right to Know Law as a record, including a financial record, of a Commonwealth or local agency that: (1) is not exempt under section 708 of the Right to Know Law; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege. The following records are not public records under Section 708(b) of the Right to Know Law:

- (a) Records which result in the loss of funds from Federal or State agencies.
- (b) Records that jeopardize physical or personal security.
- (c) Records that imperil the military, homeland security, or threaten public safety or activities.
- (d) Records that endanger physical security of buildings, infrastructure or computer storage.
- (e) Records that jeopardize employees' health information including workers' compensation or unemployment compensation records.
- (f) Personal information such as employee identification number, Social Security Number, drivers' license number or home information.
- (g) Personnel documents such as letters of reference, performance rating or grievance materials (until a decision is made based on the latter).
- (h) Material which details negotiation strategy for collective bargaining agreements.

- (i) Drafts of ordinances, policies or resolutions until they are finally adopted.
- (j) Pre-decisional information/deliberations for proposals or budgets, until presented to a quorum of the Borough.
- (k) Information that discloses a trade secret or other confidential proprietary material.
- (l) Personal notes for public official's own use; also includes telephone notes if not used for an official use.
- (m) The identity of a donor, except when the donation is for "the personal benefit of either a public official use.
- (n) Unpublished lecture notes, manuscripts, articles or other creative works in progress.
- (o) Academic transcripts (including licensing exams).
- (p) Police investigative materials, except for the police blotter.
- (q) Reports of non-criminal investigations (this includes complaints).
- (r) 911 tapes; however response time logs are public.
- (s) DNA & RNA records.
- (t) Autopsy records.
- (u) Draft minutes, until the next regularly scheduled meeting, or minutes from an executive session.
- (v) Real estate appraisals, engineering studies or environmental reports.
- (w) Library circulation records.
- (x) Certain archival records and museum materials.
- (y) Any material that would identify a protected archaeological site or endangerment to any habitat for a threatened animal/plant species, which is not public.
- (z) Any material such as contract bids, construction, etc. until the contract has been awarded.

- (aa) A record related to communications between insurance carriers, administrative service organization or risk office except for contracts.
- (bb) The identity of anyone who applies for social services.
- (cc) Correspondence between legislator and constituent.
- (dd) Records that identify, home address or birth date of a child 17 years or younger.

**§103. Public-Record's Officer.** Borough Council shall appoint an Open-Record's Officer annually to receive requests submitted to the Borough under the Right to Know Law, direct requests to other appropriate persons within the Borough, or to appropriate persons in another agency, track the agency's progress in responding to requests and issue interim and final responses under the Right to Know Law. Upon receiving a request for a public record, legislative record or financial record, the open-records officer shall do all of the following:(a) Note the date of receipt on the written request; (b) Compute the day on which the five-day period under section 901 of the Right to Know Law will expire and make a notation of that date on the written request; and (c) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) of the Right to Know Law or the appeal is deemed denied.

**§104. Inspection.** Public Records are open for inspection and copying at the White Haven Borough Municipal Building, 312 Main Street, White Haven, PA 18661, during normal office hours, with the exception of holidays.

**§105. Requests.** A request for public records must be in writing on the form attached to this Policy.

**§106. Fees.** A request for copies of public records will be subject to a fee. All applicable fees shall be paid in order to receive access to the records being requested. Prior to granting a request for access, the Borough may require a requester to prepay an estimate of the fees authorized under Schedule "A" of this Part if the fees required to fulfill the request are expected to exceed \$100.00. At the time of adoption of this policy, the reasonable fees to cover the direct costs incurred by the Borough are established in Schedule "A" attached hereto. The Borough may from time to time change the fees established in Schedule "A" by resolution.

**§107. Redaction.** If the Borough determines that a public record, legislative record or financial record contains information which is subject to access as well as information which is not subject to access, the Borough's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, the

Borough shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The agency may not deny access to the record if the information which is not subject to access is able to be redacted.

**§108. Response.**

(a) Response Time. Upon receipt of a written request for access to a record, an agency shall make a good faith effort to determine if the record requested is a public record, legislative record or financial record and whether the agency has possession, custody or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. The time for response shall not exceed five business days from the date the written request is received by the open-records officer. If the Borough fails to send the response within five business days of receipt of the written request for access, the written request for access shall be deemed denied.

(b) Extension of Time. Upon receipt of a written request for access, the open-records officer for the Borough shall determine if one of the following applies:

- (1) the request for access requires redaction of a record in accordance with section 107 above;
- (2) the request for access requires the retrieval of a record stored in a remote location;
- (3) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- (4) a legal review is necessary to determine whether the record is a record subject to access under the Right to Know Law;
- (5) the requester has not complied with the agency's policies regarding access to records;
- (6) the requester refuses to pay applicable fees authorized by the Right to Know Law; 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 in subsection (b) (1) through (7) above applies, the open-records officer shall send written notice to the requester within five 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 and 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 30 days, following the five business days allowed for in section 108(a) above, 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 notice if the Borough has not provided a response by that date.

**§109. Appeal Process.** If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under section 503(d) of the Right to Know Law within 15 business days of the mailing date of the Borough's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the Borough for delaying or denying the request.

**§110. Other Applicable Policies.** This policy may be affected by the Retention and Disposition schedule for Records of Pennsylvania Municipalities, as well as other state and federal laws and regulations relating to public record retention and disposition scheduled. (Res. No. 9-2004, 10/18/2004, Sec. 9)

**§111. Repealer.** Any and all other ordinances, resolution, policies, or parts thereof, consistent or in conflict herewith, are hereby repealed. (Res. No. 9-2004, 10/18/2004, Sec. 10)

## SCHEDULE "A"

EDITOR'S NOTE: The following fee schedule has been changed and established at the recommendation of the Office of Open Records pursuant to Section 1307 of the Right-To-Know law.

### Fee Structure

Record Type	Fee
<b>Copies:</b> (A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page)	.25 per page.
<b>Certification of a Record:</b>	\$5.00 per record to certify a public record. Please note that certification fees do not include notarization fees.
<b>Specialized documents:</b> (For example, but not limited to, blue prints, color copies, non-standard sized documents)	Actual Cost
<b>Facsimile/Microfiche/Other Media:</b>	Actual Cost
<b>Redaction Fee:</b>	None
<b>Conversion to Paper:</b>	If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)).
<b>Postage Fees:</b>	Actual Cost

**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/ZIP CODE(Required)**

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

**RECORDS REQUESTED:** \_\_\_\_\_

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

*\*Provide as much specific detail as possible so the Borough 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**

**\*\* PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES**

**\*\***

**\*\* IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN  
APPEAL \*\***

***FOR BOROUGH USE ONLY***

**RIGHT TO KNOW OFFICER:** \_\_\_\_\_

**DATE RECEIVED BY THE AGENCY:** \_\_\_\_\_

**AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:** \_\_\_\_\_

*\*\*The Borough will only respond to written requests where the identity of the requestor is provided on this form. The requestor may only pursue the relief and remedies provided for in the Act, if the request is 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.)*