Borough of Everett
100 Mechanic Street
Everett, PA 15537

Open Records Officer: Ruth A. Bowman
Contact Information: 814-652-9202 or by email at borooffice@everettboro.com

Appeals Information: Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
717-346-9903 (voice)
717-425-5343 (fax)
openrecords@.pa.gov (email)
www.openrecords.pa.gov

A request form must be completed to receive information.

Open Records Policy and Procedures

Effective: January 1, 2009

Section 1: Purpose

The purpose of this policy is to assure compliance with Act 3 of 2008, the Pennsylvania Right-toKnow Law, as amended; to provide access to the public records of the Borough of Everett (the Borough); to preserve the integrity of the Borough's records; and to establish the procedures used in receiving and processing public record requests.

Section 2: Designated Open-Records Officer

It is the policy of the Borough to require the presence of a designated agent when the Borough's public records are examined and inspected, and to charge reasonable fees for the duplication of such records. The Borough Council shall designate and Open-Records Officer who will be responsible for assuring compliance with the Pennsylvania Right-to-Know Law in accordance with the following guidelines:

A. All public record requests shall be processed by the Open-Records Officer; or processed by an agent assigned by, and under the direct supervision of, the Open-Records Officer.

B. All requests for public records shall be specific in identifying and describing each public record requested. In no case shall the Borough be required to create a record that 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 such records. All requests for records must be submitted in writing and include: the date of the request; the requestor's name, address and telephone number; certification of United States residency; and the signature of the requestor. If duplication of a record is requested, appropriate payment must be made with the request.

C. The Open-Records Officer or assigned agent must make a good faith effort to determine whether each record requested is a public record.

D. The Borough shall facilitate a reasonable response to a request for its public records. In no case is the Borough expected to provide extraordinary staff to respond to the request, but will respond in a

manner consistent with its administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.

E. 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.

F. The response provide by the Borough shall consist of (1) approval for access to the public record; (2) review of the request by the designated employee; or (3) denial of access to the record requested.

G. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Borough. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the Borough's 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.

H. Feed for duplication of public records shall be as established by the Commonwealth's Office of Open Records. The Borough may at its discretion waive fees.

I. 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.

J. 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:

(a) 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;

(b) The record required retrieval from a remote location;

(c) A timely response cannot be accomplished due to staffing limitations;

(d) Legal review is necessary to determine whether the record requested is a public record;

(e) The requester had failed to comply with the Borough's policy and procedure requirements;

(f) The requester refuses to pay the applicable fees; or

(g) 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 included 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 thirty (30) days, following the five 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 notice if the Borough has not provided a response by that date.

K. 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".

L. 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 and grounds stated by the Borough for delaying or denying the request.

M. Within thirty (30) days of the mailing date of the final determination of the appeals officer, the requester or the Borough may file a petition for review or other document as required by rule of court with the Court of Common Pleas for Bedford 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.

N. This policy shall be available for review at the Borough office.

Section 3. Repealer. If this policy or part of this policy is in conflict with any other Borough policy, then such other Borough policy is hereby repealed insofar as the same affects this policy.

Section 4. Severability. If any sentence, clause, section, or part of this policy is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this policy. It is hereby declared as the intent of the Borough Council that this policy would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section, or part of this policy not been included herein.

Section 5. Effective Date. This policy shall become effective on January 1, 2009.