

## **Open Records Policy - Borough of Robesonia**

Effective: January 1, 2009

Last updated: May 4, 2009

The Borough of Robesonia (the “Borough”) has adopted the following policy to comply with the Commonwealth’s Act 3 of 2008, 65 Pa.C.S.A. § 67.101 et seq., commonly known as the “Right to Know Law.” With certain exceptions, members of the public have the right to inspect and/or copy records upon request.

### **1. Definitions**

- A. Right to Know Law (or Open Records Law).** Act 3 of 2008, 65 Pa.C.S.A. § 67.101 et seq., commonly known as the Right to Know Law (“Law”).
- B. Business Day.** Monday through Friday during regular business hours, except those days when the offices of the Borough of are closed for all or part of a day:
  - i. Due to a federal/state/borough holiday;
  - ii. Due to a natural or other disaster; or
  - iii. Due to the request or direction of local, state, or federal law enforcement agencies or officials.
- C. Public Record.** Any document that satisfies the general definition of “public record” set forth in the Law and does not fall within any of the exception set forth therein, as the definition and exceptions are amended from time to time and as the definition and exceptions are interpreted by state, federal and/or local courts.
- D. Open Records Officer (“Officer”).** Any official or employee of the Borough who is officially assigned responsibility for receiving, tracking and responding to requests for information under the Law. The Borough may designate a Deputy or Secondary Open Records Officer to act in the absence of an Open Records Officer.
- E. Requester.** Any person who requests a record under the Right to Know Law.
- F. State Office of Open Records.** The State Office, under the Department of Economic and Community Development, as explained in Section 1310 of the Right to Know Law. The Office of Open Records shall be responsible for any duties, which include, but not limited too: issuing advisory opinions, training agencies and public employees, assigning appeals officers to review decision and conducting a biannual review of fees allowed under law.

## 2. Open Records Officer.

Please see below for the Open Records Officer specific for the Borough. Should no Officer be listed or available, the request should be direct to the Borough Solicitor.

The current Officer is:

Ms. Lisa Heilman, Secretary  
Borough of Robeson  
75 S. Brooke Street  
Robeson, PA 19551

The Borough Solicitor is:

Andrew S. George, Esquire  
520 Walnut Street  
P.O. Box 8581  
Reading, PA 19603-8581  
(610) 376-1515

## 3. Procedure.

The Law requires that the Borough act upon each non-anonymous written request when such request is made in person, by mail, by facsimile or by e-mail. The Law does not require that the Borough shall refuse to accept oral requests. Furthermore, the Law does not require that the Borough act upon an anonymous request, and the Borough will refuse to honor an anonymous request.

Pursuant to the Law, the State Office of Open Records has created and published on its website (<http://openrecords.state.pa.us/portal/server.pt>) a statewide form which must be accepted by the Borough for the filing of a request or which can be obtained by request from the Open Record Officer for the filing of an Open Records request.

The Law sets forth various specification for the contents of a written request. The request must contain, at a minimum, the following information:

- i. Name of the Requester;
- ii. Address of the Requester;
- iii. Records being sought with "sufficient specificity" to allow the Borough to ascertain which records are being requested.

Under the Law, the Borough has a duty to make a good faith effort to determine if the record(s) requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request; this time shall not exceed five (5) business days from the date of the request is received by the agency's Open Records Officer. The Law

provides that either a final or interim response be provided to the requester within five (5) business days from the date of receipt by the agency. If the agency fails to respond within this five (5) day time period, the Open Records Request is deemed denied.

The Law and the Borough's policy contemplates that Requesters will receive a response within five (5) business days. The Law, however, does provide the Borough with specific reasons that may be invoked to receive a single extension of time which shall not exceed thirty (30) calendar days. If an extension is invoked and no response is provided to the Requester within the thirty (30) day extension, the request is 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 agency has not provided a response by that date.

The Borough's final response to the request shall do one of the following:

- i. Grant the request;
- ii. Deny the request;
- iii. Grant the request in part and deny the request in part; or
- iv. Grant the request and redact part of the information provided pursuant to the Law and/or other applicable federal, state and local law.

#### 4. Appeal of Denied Requests.

If a request for access to a record is denied (in whole or in part) or deemed denied, the Requester may file an appeal with the State Office of Open Records within fifteen (15) business days of the mailing date of the Borough's denial. The appeal should state the grounds upon which the Requester asserts the items requested are public and/or financial records under the Law; the appeal shall also address any grounds stated by the Borough for denying the request.

Unless the Requester agrees otherwise, the State Office of Open Records Appeal Officer shall make a final determination which shall be mailed to the Requester and the Borough within thirty (30) days of receipt of the appeal. Should the appeals Officer fail to issue a ruling within thirty (30) days, the appeal is deemed denied.

Before a final determination is issued, a hearing may be held. The determination by the Appeals Officer shall be a final order. The Appeals Officer shall provide a written explanation of the reasons for the decision to the Requester and to the Borough.

Within thirty (30) days of the mailing date of the final determination of the appeals Officer, a Requester of the Borough may file a Petition for Review or other document(s) as required by rule of Court with the Berks County Court of Common Pleas.

#### 5. Fees and Charges.

Fees for duplication of the records have been established and posted by the State Office of Open Records. The Borough shall charge \$0.25 per page for photocopies, which is consistent with the State Office of the Open Records regulations.

The Borough reserves the right to impose additional fees if it incurs costs for complying with a request, pursuant to the Right to Know Law; such additional fees, when charged, must be reasonable. This includes, but is not limited to, fees for enhanced electronic access and certified copies of documents.

#### 6. Written Policies and Regulations.

The Borough and each Open Record Officer shall retain the discretion and authority to adopt any other written policies that are consistent with the Right to Know Law, and these policies, as amended from time to time, that they deem to be necessary, prudent or consistent with the Right to Know Law.