



237 SEVENTH STREET, WEST EASTON, PA 18042-6172 610-252-6651 FAX: 610-252-6993

Open Records Policy

Adopted by  
West Easton Borough Council  
August 13, 2012

**Section 1 — Purpose**

The purpose of this Open Records Policy is to assure compliance with Act 3 of 2008, The Pennsylvania Right-to-Know Law ("RTKL"), as amended; to provide access to public records of the Borough of West Easton ("Borough"); to preserve the integrity of the 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. This policy is promulgated pursuant to RTKL Section 504.

**Section 2 — Designating Open Records Officer**

It is the policy of the Borough to require the presence of a designated public official when public records are inspected and to charge reasonable fees for duplicating of public records of the Borough. The Borough Open Records Officers are as follows:

Open Records Officer:

Joan Heebner, Borough Secretary/Manager  
237 Sevent Street  
West Easton, PA 18042  
Phone - 610-252-6651  
Email — boroughmanager@westeastonborough.org

Assistant Open Records Officer:

Steve Goudsouzian, Borough Solicitor  
237 Seventh Street  
West Easton, PA 18042  
Phone - 610-252-6651

A. The Open Records Officer may designate certain employees or public officials to process public record requests.

B. The Open Records Officer 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.

### **Section 3 - Request For Open Records**

A. 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 which the Borough does not currently compile, maintain, format, or organize the public record.

In order to maintain an orderly process, all requests for public records shall be submitted in writing on the standard RTKL request form published on the website of the Pennsylvania Office of Open Records ("OOR").

A copy of the standard RTKL request form is available at the Borough Hall, 237 Seventh Street, West Easton, PA, or online at [openrecords.state.pa.us](http://openrecords.state.pa.us).

B. The Open Records Officer or designee shall make a good faith effort to determine whether each record requested is a public record.

C. 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 extraordinary 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 RTKL.

D. The Borough 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 the receipt thereof, the request is deemed denied, unless an extension of time has been invoked under RTKL Section 902 (See Section 5 of this policy).

E. The response provided by the Borough shall consist of: (1) approval granted for access to the requested public record; (2) a denial of access to the requested record; or (3) a review of the request under Section 5 of this policy.

F. If access to the requested public record is granted for copies, the copies shall be available for pickup at the Borough Hall between 9 am and 2 pm Monday through Friday, except holidays, upon the payment of required fees (See Section 4 of this policy), and the signing of a receipt.

G. If access to the requested public record is granted for inspection, the presence of a designated public official is required to supervise the inspection of the public records. The designated public official shall take reasonable measures to protect Borough public records from the possibility of theft and/or modification. These supervised inspections shall be by prior

appointment with the Open Records Officer or designee and shall occur between 1 pm and 5 pm, any Tuesday, Wednesday, Thursday or Friday, except holidays.

H. A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.

#### **Section 4 - Fees**

A. Fees for duplication of public records shall be as established by the OOR. Currently, the Borough will charge a fee of \$ 0.25 per page. In the event of complex or extensive data sets, the fees for copying will be based on the reasonable market value of the same.

B. The Borough will impose reasonable fees for official certification of copies if the certification is at the behest of the requester.

C. A requester must pay for copies of requested records at the time they are picked up. In the event the estimated cost of fulfilling a request is expected to exceed \$100.00, the Borough shall obtain the expected cost in advance of processing the request.

D. The Borough has no obligation to provide newly requested public records to a requester until that requester has paid in full any outstanding balance for a previously fulfilled records request. The Open Records Officer must provide a timely response under these circumstances, but that response may be a denial for failure to pay the outstanding balance.

#### **Section 5 - Extended Responses Under RTKL Section 902**

A. If the request requires a review by the Open Records Officer, 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) after the initial five business days. If the Borough does not respond within this extended time period, the request is deemed denied.

Review of the request is limited to situations where:

- i. 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;
- ii. The record required retrieval from a remote location;
- iii. A timely response cannot be accomplished due to staffing limitations;
- iv. A legal review is necessary to determine whether the record requested is a public record;
- v. The requester has failed to comply with the Borough's policy and procedure requirements;
- vi. The requester refuses to pay the applicable fees; or
- vii. The extent or nature of the request precludes a response within the required time period.

Upon determination that one of the factors listed above applies, the Borough shall send a 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, 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, the request for access shall be deemed denied, unless the requester has agreed in writing to a further extension of time. If the requester agrees to the extension, the request shall be deemed denied on the day following the agreed extension date, if the agency has not provided a response by that date.

### **Section 6 – Modification of Pending RTKL Request**

Any modification to a pending RTKL request during the five business day response period (or during a 30-day extension) must be in writing and shall be considered a withdrawal of that request and the submission of a new request, as modified. Upon such an occurrence, the five business day response period will begin anew for the modified request. However, if copies of requested records have been made before such modification occurs, the requester shall be responsible for the payment of the copying fees. Furthermore, payment must be received before future records requests will be fulfilled.

### **Section 7 – Good Judgment by Requesters**

The Borough has been processing requests under the new RTKL since its effective date of January 1, 2009. During that period of time, it has become evident that fulfilling requests can be a challenging endeavor.

This policy endorses the following statement from the OOR website, under its Frequently Asked Questions section: "The law states that a state or local agency cannot limit 'the number of records which may be requested or made available for inspection or duplication.' However, citizens should use good judgment in seeking records from the public body and not use this law to harass or overburden a public body from performing its job. Also, a public body can deny repeated requests for the same records by the same requester. [Section 506]"

This policy also endorses the following statement from the OOR website, which appears in the introduction to its Citizens Guide: "Agencies are to ensure that citizens are provided access to records to which they are entitled. Equally important, Requesters are to use good judgment in seeking records from the public body and not use this law to harass or overburden a public body from performing its other functions. The Office of Open Records encourages patience and a spirit of cooperation among all parties."

### **Section 8 - Appeals**

A. If access to the record requested is denied, the notice provided by the Borough shall be in writing.

B. If the request is denied or deemed denied, the requester may file an appeal with the OOR within fifteen (15) business days, of the mailing date of the Borough's notice of denial, or within fifteen (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 and shall address any grounds stated by the agency for denying the request.

C. Within 30 days of the mailing date of the final determination of the OOR, the requester or Borough may file a Petition for Review or other documents as required by rule of court with the Court of Common Pleas of Northampton County. The decision of the Court shall contain findings of fact and conclusions of law based upon the evidence as a whole. A Petition for Review under this section shall stay the release of the documents until a decision is issued.

### **Section 9 – More Information**

The best resource concerning the RTKL is online at [openrecords.state.pa.us](http://openrecords.state.pa.us).

The contact information for the OOR is:

Commonwealth of Pennsylvania  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, PA 17120-0225

OOR Phone: (717) 346-9903  
OOR Email: [openrecords@pa.gov](mailto:openrecords@pa.gov)

### **Section 10 - Amendments to this Policy**

This policy may be amended at any time, as circumstances warrant, by the West Easton Borough Council.