

Chapter 59

RECORDS, PUBLIC ACCESS TO

§ 59-1. Purpose.

§ 59-2. Policy.

§ 59-3. Designation of employees to process requests.

§ 59-4. Minimization of financial impact.

§ 59-5. Public record requests; forms.

§ 59-6. Determination of public record.

§ 59-7. Borough response to requests.

§ 59-8. Approved requests.

§ 59-9. Fees for duplication.

§ 59-10. Partial payment required in advance for certain costs.

§ 59-11. Review of request.

§ 59-12. Denied requests; exceptions.

§ 59-13. Policy to be posted.

[HISTORY: Adopted by the Borough Council of the Borough of North Wales 2-25-2003 by Ord. No. 722. Amendments noted where applicable.]

§ 59-1. Purpose.

The purpose of this chapter is to assure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. § 66.1 et seq., as amended, to provide access to public records of the Borough of North Wales, to preserve the integrity of Borough records, and to minimize the financial impact to the residents of the Borough

of North Wales regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

§ 59-2. Policy.

It is the policy of the Borough of North Wales 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 designated the Borough Secretary as responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines.

§ 59-3. Designation of employees to process requests.

The Borough may designate certain employee(s) to process public record requests.

§ 59-4. Minimization of financial impact.

The Borough Secretary 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.

§ 59-5. Public record requests; forms.

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 on a form provided by the

Borough, as attached hereto entitled "Public Record Review/Duplication Request."¹

§ 59-6. Determination of public record.

The designated employee shall make a good-faith effort to determine whether each record request is a public record.

§ 59-7. Borough response to requests.

- A. The Borough shall facilitate a reasonable response to a request for Borough 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 Borough administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.
- B. The designated employee shall respond to the requester within five business days from the date of receipt of the written request. If the Borough does not respond within five business days of receipt thereof, the request is deemed denied.
- C. The response provided by the Borough shall consist of approval for access to the public record, review of the request by the designated employee, or denial of access to the record requested.

§ 59-8. Approved requests.

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 Borough public records from the possibility

¹Editor's Note: Said form is on file in the Borough offices.

of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.

§ 59-9. Fees for duplication.

Fees for duplication of public records shall be as follows:

- A. Photocopying: \$0.25 per page.
- B. Duplication of public electronic and/or tape records: actual cost to the Borough of duplicating the public record.
- C. Certified copies: \$1 per page.
- D. Postage: actual cost to the Borough of mailing the public record.
- E. Staff costs: prorata reimbursement of employee's salary vis-a-vis time utilized in complying with a specific request.

§ 59-10. Partial payment required in advance for certain costs.

In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100, the designated employee(s) shall obtain 50% of the expected cost in advance of fulfilling the request to avoid unwarranted expense of the Borough resources.

§ 59-11. Review of request.

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 30 days of the notice of review. If the Borough does not respond within 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. A legal review is necessary to determine whether the record requested is a public record.
- E. The requester has failed to comply with the Borough's policy and procedure requirements; or
- F. The requester refuses to pay the applicable fees.

§ 59-12. Denied requests; exceptions.

- A. 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."²
- B. If the request is denied or deemed denied, the requester may **file** exceptions with the Borough within 15 business days of the mailing date of the Borough's notice of denial, or within 15 days of a deemed denial. The exceptions must:
 - (1) Indicate the date of the original request.
 - (2) Identify and describe the record(s) requested.
 - (3) State the grounds upon which the requester asserts the record(s) is a public record; and
 - (4) Address any grounds stated by the Borough in its notice of denial.

²Editor's Note: Said form is on file in the Borough offices.

C. The Borough shall review the exceptions and may conduct a hearing to assist in making a final determination. A final determination will be made within 30 days of the mailing date of the exceptions, unless extended by the parties. If the denial is upheld, the decision shall contain a written explanation of the reason for denial and an explanation of the reason for denial and an explanation of the process for further appeal.

§ 59-13. Policy to be posted.

This policy shall be posted conspicuously at Borough **Hall**.