

Chapter 59

RIGHT TO KNOW

[HISTORY: Adopted by the Borough Council of the Borough of North Wales 11-12-2014 by Ord. No. 799.¹ Amendments noted where applicable.]

§ 59-1. Open-Records Officer.

- A. The following official is hereby designated as the Open-Records Officer, at the following address:

Right to Know Officer 300 School Street North Wales, PA 19454

- B. The Borough Manager may designate one or more employees to serve in his place during any period of absence or nonavailability.

§ 59-2. Hours and place of access.

- A. Public records shall be available for access during regular business hours of the Borough of North Wales.
- B. Records of the Borough shall generally be made available at the Borough building located at 300 School Street, North Wales, PA.

§ 59-3. Posting requirements.

The Borough shall post the following at the Borough buildings and on the Borough's website:

- A. Contact information for the Open-Records Officer (including location address, e-mail address and telephone number).
- B. Contact information for the Pennsylvania Office of Open Records.
- C. A form which may be used for filing a request under the Act.²
- D. Borough regulations, policies and procedures relating to the Act.

§ 59-4. Request requirements.

- A. Any request made to the Borough under the Act,³ if the requester wishes to retain his or her rights and remedies under the Act, shall be in writing and meet the following procedural requirements:

1. Editor's Note: This ordinance repealed former Ch. 59, Records, Public Access to, adopted 2-25-2003 by Ord. No. 722.

2. Editor's Note: See 65 P.S. § 67.101 et seq.

3. Editor's Note: See 65 P.S. § 67.101 et seq.

- (1) Provide a name and address to which a response to the request can be sent.
 - (2) Specifically identify the record(s) requested, with sufficient specificity to enable the Open-Records Officer to ascertain which records are being requested.
 - (3) State whether the requester is a legal resident of the United States or a commonwealth, local, judicial or legislative agency.
- B. "In writing," as referred to above, includes written requests submitted in person, by mail, by e-mail or by facsimile.
- C. Requesters may submit requests under the Act on either the uniform form adopted by the Pennsylvania Office of Open Records, or under a form developed by the Borough and made available on the Borough website or at the Borough building.
- D. Any failure to provide a name and address shall render the request administratively incomplete. The Borough shall not be required to respond to an administratively incomplete request.
- E. Right-to-know requests must be sent or delivered to the Borough by one of the following approved methods of transmission: 1) United States Mail; 2) courier; 3) express delivery; 4) overnight mail; 5) hand-delivery; 6) facsimile; or 7) e-mail. No other form of transmission is permitted.
- F. Right-to-know requests must be mailed or delivered to: Borough of North Wales, Open-Records Officer, 300 School Street, North Wales, Pennsylvania 19454.
- G. The Borough may accept verbal requests for records, but the requester will not be afforded the rights and remedies provided under the Act.⁴
- H. Nothing in this section shall be deemed to enlarge, modify or make public any records that are not required to be produced by the Act, or that are otherwise exempt from production under the Act.

§ 59-5. Response to written requests.

Upon receipt of a request for a public record, the Open-Records Officer shall:

- A. Note on the request the date it was received.
- B. Compute the day on which the five-business-day requirement to respond will expire, and note that date on the written request.
- C. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.
- D. If a request is denied in whole or in part, the written request shall be maintained for 30 days, or if an appeal is filed, until a final determination is issued by the appeals officer or the appeal is deemed denied.

4. Editor's Note: See 65 P.S. § 67.101 et seq.

§ 59-6. Extension of five-business-day time to respond to request.

- A. Upon receipt of a written request for access, the Open-Records Officer shall determine if one of the following applies:
- (1) The request requires redaction as authorized by the Act.⁵
 - (2) The request requires retrieval of a record stored in a remote location.
 - (3) A timely response to the request cannot be accomplished due to bona fide and specified staffing limitations.
 - (4) A legal review of the request is necessary to determine whether the record request is subject to access under the Act.
 - (5) The requestor has not complied with the Borough's Right-to-Know Law procedures.
 - (6) The requestor refuses to pay the fees authorized by the Act and this chapter.
 - (7) The extent or nature of the request precludes a response within the required period.
- B. In the event one of the factors set forth above applies, a written notice, as set forth below, shall be sent to the requestor within five business days of receipt of the request.
- C. The written notice set forth in Subsection B above shall notify the requestor that:
- (1) The request for access is being reviewed.
 - (2) The reason for the review.
 - (3) A reasonable date that a response is expected to be provided.
 - (4) An estimate of the applicable fees owed when the record becomes available.
- D. If the reasonable response date set forth in Subsection C(3) above is in excess of 30 days following the five business days initially allowed, the request shall be deemed denied unless the requestor has agreed in writing to an extension to the date specified in the notice.
- (1) If the requestor agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the Open-Records Officer has not provided a response by that date.

§ 59-7. Denial.

- A. If a request is denied in whole or in part, the denial shall be written and shall include:
- (1) A description of the record requested.
 - (2) The reasons for the denial, with citation to supporting legal authority.
 - (3) The type/printed name, title, business address, business telephone number and signature of the Open-Records Officer who authorized the denial.

5. Editor's Note: See 65 P.S. § 67.101 et seq.

- (4) Date of the response.
- (5) The procedure to appeal the denial of access.

§ 59-8. Appeal procedure.

- A. Any denial of a written request for access may be appealed by the requestor to the State Office of Open Records established in the Department of Community and Economic Development within 15 business days of the mailing date of the Open-Records Officer's response, or within 15 days of a deemed denial.
- B. The appeal shall state the grounds upon which the requestor asserts that the record is a public record and shall address any grounds stated by the Open-Records Officer for delaying or denying the request.
- C. The appeals officer designated by the Office of Open Records shall thereafter issue a determination in accordance with Act 3 of 2008.⁶
- D. A petition for review of the final determination of the appeals officer may thereafter be filed with the Court of Common Pleas of Montgomery County in accordance with and as authorized by Act 3 of 2008.⁷ The filing of such petition shall stay the release of documents until such time as a final decision has been issued.

§ 59-9. Fees.

- A. Fees for photocopies, printing from electronic media of microfilm, copying onto electronic media, transmission by facsimile or other electronic means, if authorized by this chapter, shall be as established by the Office of Open Records, namely:
 - (1) For single-sided copies black and white not in excess of 8.5 inches by 11 inches, the sum of \$0.25 per page.
 - (2) All other copies of duplication shall be charged based on the actual cost incurred as authorized by the State Office of Open Records.
- B. The production of records shall not require the Borough to certify records. In the event certification is requested by the requestor for the purpose of legally verifying the public record, the requestor shall be assessed a charge as established by the Office of Open Records, namely \$5 for such certification.
- C. If requested records are only maintained in a nonpaper format, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media format of the record, unless the requestor specifically requires the more expensive medium.
- D. The actual cost of mailing shall be charged.

6. Editor's Note: See 65 P.S. § 67.101 et seq.

7. Editor's Note: See 65 P.S. § 67.101 et seq.

- E. Reasonable costs for complying with a request may be changed if authorized by the Act.⁸
- F. In the event the fees required to fulfill the request are expected to exceed \$100, the requestor shall prepay the estimated fees prior to being granted access to the public records.
- G. In the event the Open Records Officer's response to a request states that copies of the records are available for delivery at specified offices of the Borough and the records are not retrieved within 60 days of the date of the response, the Borough may dispose of the copies not retrieved and retain any fees paid.

§ 59-10. Conflicts.

In the event any part of this chapter is in conflict with any mandatory portion of Act 3 of 2008,⁹ then only that portion of this chapter shall be deemed in conflict, and this chapter shall be deemed amended to comply with Act 3 of 2008.

§ 59-11. Availability of policy.

This chapter shall be available for inspection at the North Wales Borough building located at 300 School Street, North Wales, PA 19454 and at the Borough's website:
www.northwalesborough.org.

8. Editor's Note: See 65 P.S. § 67.101 et seq.

9. Editor's Note: See 65 P.S. § 67.101 et seq.