

APPROVED *James D. Williams*

INSPECTION AND COPYING OF PUBLIC RECORDS

I. GENERAL

The Borough shall respond to the public's request to inspect and/or copy Borough records in a good faith, prompt manner, consistent both with legal restrictions and the Borough's obligations to the public and employee's right to privacy.

II. PURPOSE

To establish uniform procedures to ensure prompt and appropriate responses to requests to view or copy public records. In addition, this policy addresses requests for copying and distribution of citizen provided materials. Information normally disseminated to fulfill the department's public mission generally is not subject to this policy.

III. RESPONSIBILITY

- A. Department directors shall ensure that their department staff follows the procedure set forth in this policy.
- B. Compliance with this policy is the responsibility of all Borough employees.
- C. Human Resources shall maintain this policy.

IV. POLICY

A. Written Requests.

1. All requests for Borough records shall be made in writing to the appropriate department using the Public Records Request Form. Upon receipt of the request an employee shall record the date and time of the request.
2. Prior to reviewing or copying information, the requesting party shall be required to sign a Certificate of Non-litigation Affiliation, which is included on the Public Records Request Form. If the person requesting to inspect Borough records is in litigation with the Borough in a judicial or administrative forum, or is acting on behalf of or representing any person who is involved in litigation with the Borough, disclosure of any Borough records relevant to that litigation or reasonably likely to lead to the discovery of relevant evidence is governed by the rules or orders of that forum, and not by this policy.

Failure to sign the Public Records Request containing the Certificate of Non-litigation Affiliation voids the Public Records Request and the Borough has no obligation to process the request.

B. Time Periods.

1. All Borough employees shall make a good faith, diligent effort to provide a prompt, reasonable response to any request to view or copy a public record. Such response should normally occur within five working days.
2. If a full response cannot be made within five working days, the requesting party shall be notified in writing of the reason for the delay and the amount of time needed to fully respond. Delays of more than fifteen days in response time shall require the approval of the Chief of Staff.

C. Fees.

1. The requesting party shall be charged a copying fee for costs of duplication of all public records requested in accordance with the current fee schedule established by the Mayor's Office and approved by the Assembly. A fee for responding to a public records request that is less than \$5 will be waived because the fee is less than the cost to the borough to arrange for payment.
2. If the production of records for one requestor (individual or organization) in a calendar month exceeds five person-hours, the requester shall pay the actual personnel costs (salaries plus benefits) in excess of five (5) hours, required to complete the search(s) and copying tasks. Hours involved in requests for records are cumulative throughout each month. The estimated fee shall be paid in advance of the search or at such time when it becomes evident that the request will require more than five hours to complete. Any excess payment shall be returned to the requestor. The requestor must pay any shortage prior to receiving documents.

D. Non-disclosable Documents.

There are certain documents that should not be disclosed. Some of these documents are listed below. **This, however, is not an exclusive list.** Any questionable or unusual requests should be reviewed by the Department of Law prior to allowing inspection or copying. If documents contain both disclosable and non-disclosable information, the non-disclosable information shall be blacked out. Generally, the following types of documents should not be disclosed or should be disclosed only after consultation with the Department of Law:

1. Juvenile Records (17 and under).
2. Medical and related public health records.
3. Documents that contain information to which an individual has a legitimate expectation of privacy that outweighs the public interest in the request. (e.g. Credit applications/reports, deed of trusts, etc. in which a "Privacy Act" notification is sent.)
4. Privileged documents, including attorney client communications and those documents protected by the executive deliberative process privilege.

5. Names, addresses and phone numbers of informants or complainants in law enforcement (criminal) matters, unless such disclosure is necessary to the fair and just disposition of the charge or complaint in enforcement proceedings.
6. Blueprints or other as-built plans of public buildings.
7. Safety/Security sensitive documents.

E. Denials and Appeals.

The denial of any record request shall be in writing from the Department Director and shall inform the requesting party of the right to appeal the denial to the Borough Attorney. If the Borough Attorney upholds the denial, then the requesting party shall be notified in writing of the right to file an appeal to the Borough Assembly. Appeals from decisions by the Assembly shall be to superior court. The requester may obtain immediate judicial review of the denial by seeking an injunction from the superior court under AS 40.25.125.

F. Copying of Information for Board and Commission Meetings.

If a citizen provides a document (8.5" by 11") requesting distribution to a board or commission, the Borough may copy and distribute the document if the Director deems the subject is applicable to an upcoming meeting's specific agenda item. Information that has been previously provided may be recopied or distributed at the discretion of the Director.

If a citizen wishes to have a document distributed to individual board and commission members relative to an issue that is not on an upcoming agenda, it is the citizen's responsibility to copy and distribute the item. The Borough shall provide contact information of Board and Commission members to the citizen upon request.

V. PROCEDURE

- A. All requests to review or copy public records shall be in writing (see attached Public Records Request form). Each department shall keep a log of all requests to view or copy public records. This log shall include the date and time of the request and the fee charged, if any.
- B. The original copy of the completed form and all backup, shall be filed in the requesting department and a complete copy sent to legal.
- C. Other than to inquire whether the person making the request is a party, or represents a party involved in litigation with the Borough, no employee shall require a requesting party to supply a justification or explanation of need or intended use.
- D. Generally, documents required by law to be kept confidential or privileged documents shall be filed separately from documents disclosable to the public.

VI. SUPPLEMENTAL INFORMATION

A. References –

1. FNSB Code 1.16.
2. AS 40.25.

B. Definitions –

1. "Record" means any document, paper, book, letter, drawing, map, plat, photo, photographic file, motion picture film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card, electronic record, or other document of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by an agency or a political subdivision (Borough), as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the state or political subdivision (Borough) or because of the informational value in them; the term does not include library and museum material developed or acquired and preserved solely for reference, historical, or exhibition purposes, extra copies of documents preserved solely for convenience of reference, or stocks of publications and processed documents.
2. "Individual" includes a person, corporation or organization.

C. Attachments –

1. Public Records Request Form

D. Revision History --

Supersedes Policy No.	Effective Dates
75.01	06-08-04
75.01	07/27/11