



**ACCESS TO
PUBLIC RECORDS
POLICY**

**POLICY NO: 09-01
PAGE 1 of 5
EFFECTIVE DATE:
January 7, 2009**

PURPOSE

The purpose of this policy is to:

- Assure compliance with the Pennsylvania's Right-to-Know Law, 65 P.S. 66.1 §§ *et seq.*, as amended by Act No. 3 of 2008,
- Provide access to public records of Harmony Borough,
- Preserve the integrity of its records and,
- Minimize the financial impact to the persons and residents of the service area of Harmony Borough and the Commonwealth regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

POLICY

Section 1. Harmony Borough designates the Borough Secretary, or his or her designee, as its Open-Records Officer (ORO). The ORO may be reached as follows:

Sharon McCormick
Borough Secretary
Harmony Borough
217 Mercer Street
Harmony, PA 16037

(724) 452-6780

HarmonyBorough@zoominternet.net

Section 2. A copy of this policy, the contact information of the ORO, the contact information of the Office of Open Records, and the form for records requests approved by the adoption of this Policy and the form approved by the Office of Open Records, shall also be posted on the Borough's website - www.Harmony-PA.us – and at the Borough office pursuant to Section 504 of Act No. 3.

Section 3. The obligations of the ORO shall be as follows:

- (a) Note the date of receipt of written request.
- (b) Compute the day on which the five business-day period for a response will expire and make a notation of that date on the written request.
- (c) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for at least 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) or the appeal is deemed denied.

- (d) Create a file for the retention of the original request, a copy of the response, a record or written communications with the requester and a copy of other communications. See Section 502(b)(2)(i) - (iv) of Act No. 3.
- (e) Provide the requestor with an appropriate response or determination as required by Act No. 3.

Section 4. It is the policy of the Borough to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of its public records.

Section 5. All requests for Records under Act No. 3 made to the Borough shall be:

- (a) Addressed to the ORO designated above; and,
- (b) Submitted in writing and utilizing the form approved herein and entitled "Public Record Review/Duplication Request." {Exhibit A}. Completed forms may be submitted in person, by mail, by facsimile, or by e-mail. The Borough will NOT honor any verbal or anonymous requests.

Section 6. Employees other than the designated ORO who receive requests are to direct such requests to the ORO.

Section 7. Written requests should identify or describe the record(s) sought with sufficient specificity to enable the Borough to ascertain which records are being requested and shall include the name and address to which the Borough shall address its response.

Section 8. In no case shall the Borough be required to create 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 such records.

Section 9. The time for response by the ORO shall not exceed five (5) business days from the date the written request is received by him or her via specific in identifying and describing each public record requested. If the ORO fails to respond within five (5) business days of receipt of the written request, the request shall be deemed denied.

The following guidelines apply to the response:

- (a) Determination. – Upon receipt of a written request for access, the Open-Records Officer shall determine if one of the following applies:
 - (1) the request for access requires the redaction of a record in accordance with section 706;
 - (2) the request for access requires the retrieval of a record stored in a remote location;
 - (3) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
 - (4) a legal review is necessary to determine whether the record is a record subject to access under this act;

- (5) the requester has not complied with the Borough's policies regarding access to records;
- (6) the requester refuses to pay applicable fees authorized by this act; or
- (7) the extent or nature of the request precludes a response within the required time period.

(b) Notice.

- (1) Upon determination that one of the factors listed in subsection (a) applies, the Open-Records Officer shall send written notice to the requester within five (5) business days of receipt of the request for access under subsection (a).
- (2) The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for 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 thirty 30 days, the following five (5) business days allowed for in section 901, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice.
- (3) 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 Borough has not provided a response by that date.

(c) Denial.

If the response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing {Exhibit B} and shall include:

- (a) A description of the record requested.
- (b) The specific reasons for the denial, including a citation of the supporting legal Borough.
- (c) The typed or printed name, title, business address, business telephone number and signature of the Open-Records Officer on whose Borough the denial is issued.
- (d) Date of the response.
- (e) The procedure to appeal the denial of access under this act.

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records within fifteen (15) business days of the mailing date of the Borough's response 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, legislative record or financial record is a public record, legislative record or financial record and shall address any grounds stated by

the Borough for delaying or denying the request. The address of the Office of Open Records to effectuate the filing of such an appeal is:

Executive Director
Commonwealth of Pennsylvania, Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
Phone: (717) 346-9903
Email: openrecords@state.pa.us

(d) Approval/ Certified Copies or Access

If the response grants a request for access, the Borough shall, upon request, provide the requester with a copy or certified copy record if the requester pays the applicable fees under Section 11 below.

If the Borough's response to a request states that copies of the requested records are available for delivery at the office of the Borough and the requester fails to retrieve the records within sixty (60) days of the Borough's response, the Borough may dispose of any copies which have not been retrieved and retain any fees paid to date.

See Section 902 through 905 of Act No. 3.

Section 10. 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 the Borough's public records from the possibility of theft, destruction and/or modification. The presence of a designated employee is required when public records are examined and inspected.

Section 11. Fees and Expenses.

- (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: \$1.00 per page.
- (d) Postage: actual cost to the Borough of mailing the public record.
- (e) In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain from the requestor fifty percent (50%) of the expected cost in advance of fulfilling the request.

Section 12. Effective Date.

This Policy shall take effect on January 7, 2009.

SCOPE

This policy applies to all properly submitted Public Record Review/Duplication requests in compliance with the Pennsylvania's Right-to-Know Law, 65 P.S. 66.1 §§ *et seq.*, as amended by Act No. 3 of 2008.

INTERPRETATION AND CONTROL

The Borough Secretary is responsible for the interpretation and control of this policy.

The Harmony Borough Council, operating through the Borough Secretary, has the ultimate authority for this policy.

RESOLVED AND ENACTED this 6th day of January 2009 by the Harmony Borough Council.

Exhibit A



HARMONY BOROUGH
PUBLIC RECORD REVIEW/DUPLICATION REQUEST

Please print legibly

Date of Request: Requester's Telephone Number:

Requester's Name:

Requester's Address:

I request [] review [] duplication (check applicable boxes) of the following records. Important: You must identify or describe the records with sufficient specificity to enable the Borough to determine which records are being requested. (i.e., exact property address) Use additional sheets if necessary.

I certify that I am a legal resident of the United States:

Signature of Requester Mailing Address (if different than above)

Requests may be submitted in person, by mail (217 Mercer Street, Harmony, PA 16037) or email (HarmonyBorough@zoominternet.net) to:

Sharon McCormick
Borough Secretary
Designee for Document Requests

TO BE COMPLETED BY BOROUGH:

Date Received: Request No. Date Completed:

Action Taken: [] Approved Date of Approval:
[] Denied Date Notice Mailed:
[] Other Date Notice Mailed:

Duplication Costs:

Copies: 8 1/2 x 11 # @ .25 each: Amount:
Plans # @ actual cost per page: Amount:
Electronic Conversion actual cost per page: Amount:
Total Amount:

Signature: Date:

Exhibit B



**HARMONY BOROUGH
DENIAL OF REQUEST TO REVIEW/DUPLICATE**

Date

Requestor's Name
Requestor's Address
Telephone Number

Re: Denial of Request to Review and/or Duplicate
Request No.: _____, Date of Request: _____

Dear [***Requestor***],

On [Date RTK Request received], you requested [Describe information requested, or restate their request]. Your request is denied for the following reasons, as permitted by Section 706 of the Act.

Harmony Borough has denied your request because [describe specific type of information, such as medical records, academic transcripts or other exemption items] is exempt from disclosure. [Cite applicable section of the RTK law. If precluded from release by some other state or federal law, rule or regulation, you must cite that legal authority.]

You have a right to appeal this denial of information in writing to:

Executive Director,
Commonwealth of Pennsylvania, Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

[***For Criminal Records***] appeal to the Butler County District Attorney's Office

If you choose to file an appeal you must do so within fifteen (15) business days of the mailing date of the agency's response. If you have further questions, contact the Harmony Borough Right-to-Know Officer at (724) 452-6780.

This correspondence will serve to close this record with our office as permitted by law.

Respectfully,

Sharon McCormick
Borough Secretary

Signature