

PART 10

OPEN RECORDS POLICY

§1-1001. General Rule.

Unless otherwise prohibited by law, the Borough of Philipsburg shall make all public records as defined by the Pennsylvania Open Records Law accessible for inspection and duplication by a requestor in accordance with 65 P.S. §66.1 et seq. A public record shall be provided to a requestor in the medium requested if the public record exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public records shall be available for access during the regular business hours of the Borough. Nothing in this Part shall provide for access to a record which is not a public record.

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§1-1002. Request for Access to Public Records.

1. All requests for public records shall be in writing and shall be set forth on the Borough Request Form, a sample of which is attached hereto as Exhibit "A" incorporated herein by reference. The form shall include, among other things, the requestor's contact information, date received and specific records requested. Requests may be submitted in person or by mail or fax.
2. Requests must be specific enough for the Borough to determine what records are needed.

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§1-1003. Redaction.

If the Borough determines that a public record contains information which is subject to access as well as information which is not subject to access, the Borough's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record and cannot be separated, the Borough shall redact from the public record the information which is not subject and the response shall grant access to the information which is subject to access. The Borough may not deny access to the public record if the information which is not subject to public access is able to be redacted. Information which the Borough redacts in accordance with this Section shall be deemed a denial under §1-1003(3) of this Part.

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§1-1004. Borough's Response to Requests for Access.

1. **General Rule.** Upon receipt of a written request for access to a record, the Borough shall make a good faith effort to determine if the record requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request, but shall not exceed five business days from the date the written request is received by the Borough. Except as set forth in Subsection 2 below, if the Borough fails to respond within five business days of receipt of the written request for access, the written request for access shall be deemed denied.
2. **Exception.** Upon receipt of a written request for access, if the Borough determines that one of the following applies, the Borough shall send written notice to the requestor within five business days of the Borough's receipt of the request notifying the requestor that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expect to be provided. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed under Subsection 1 above, the request for access shall be deemed denied:
 - A. The request for access requires redaction of a public record in accordance with §1-1003 (Redaction).
 - B. The request for access requires the retrieval of a record stored in a remote location.
 - C. A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations.
 - D. A legal review is necessary to determine whether the record is a public record subject to access under 65 P.S. §66.1 et seq.
 - E. The requestor has not complied with the Borough's policy regarding access to public records.
 - F. The requestor refuses to pay applicable fees as set forth in §1-1007, Fees.
3. **Denial.** If the Borough's response is a denial of a written request for access, whether in whole or in part, a written response shall be issued and include:
 - A. A description of the record requested.
 - B. The specific reasons for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for the Borough's determination that the record is not a public record shall be included.

- C. The typed or printed name, title, business address, business telephone number and signature of the public official or public employee on whose authority the denial is issued.
- D. Date of the response.
- E. The procedure to appeal the denial of access under 65 P.S. §66.1 et seq.

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§1-1005. Final Borough Determination.

1. Filing of Exceptions. If a written request for access is denied or deemed denied, the requestor may file exceptions with the Borough Manager within 15 business days of the mailing date of the Borough's response or within 15 days of a deemed denial. The exceptions shall state grounds upon which the requestor asserts that the record is a public record and shall address any grounds stated by the Borough for delaying or denying the request.
2. Determination. Unless the requestor agrees otherwise, the Borough Manager or his/her designee shall make a final determination regarding the exceptions within 30 days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the Borough Manager or his/her designee may conduct a hearing. The determination shall be the final order of the Borough. If the Borough Manager or his/her designee determines that the Borough correctly denied the request for access, the Borough Manager or his/her designee shall provide a written explanation to the requestor of the reason for the denial.

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§1-1006. Judicial Appeal.

1. Within 30 days of the denial by the Borough pursuant to §1-1004(3) of this Part, or of the mailing date of a final determination of the Borough affirming the denial of access, a requestor may file a Petition for Review or other document as might be required by court rules with the Court of Common Pleas of Centre County, Pennsylvania, or bring an action in the local magisterial district. A requestor is entitled to a reasoned decision containing finding of fact and conclusions of law based upon the evidence as a whole which clearly and concisely states and explains the rationale for the decisions so that all can determine why and how a particular result was reached.
2. Notice. The Borough shall be served notice of actions commenced in accordance with Subsection 1 of this Section and shall have an opportunity to respond in accordance with applicable court rules.

ADMINISTRATION AND GOVERNMENT

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§1-1007. Fees.

1. The Borough may charge the following fees for requests for access to public records:
 - A. Postage. Fees for postage shall be the actual cost of mailing.
 - B. Copying. Fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication shall be the same as the per copy fee set forth in the Borough's fee schedule, as amended, from time to time, by resolution of Borough Council.
 - C. Certification. The fee for official certification of copies, if an official certification is requested by the requestor for the purpose of legally verifying the public record, shall be in an amount as established, from time to time, by resolution of Borough Council.
 - D. Conversion to Paper. If a public record is only maintained electronically or in other than non-paper media, duplication fees shall be those imposed by Subsection B of this Section.
2. The Borough may waive the fees for duplication of a public record including, but not limited to, when:
 - A. The requestor duplicates the public record.
 - B. The Borough deems it is in the public interest to do so.
3. Prepayment. Prior to granting a request for access in accordance with this Part, the Borough may require a requestor to prepay an estimate of the fees authorized under this Section if the fees required to fulfill the request are expected to exceed \$100.
4. Limitations. Except as otherwise provided by statute, no other fees may be imposed unless the Borough necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for the Borough's review of a record to determine whether the record is a public record subject to access in accordance with 65 P.A. §66.1 et seq.

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§1-1008. Borough Contact.

The person at the Borough to whom all record requests should be addressed shall be the Borough Manger and mailed to the following address:

Borough Manager
Borough of Philipsburg
4 N. Centre Street
Philipsburg, PA 16866

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§1-1009. Regular Business Hours.

The regular business hours of the Borough shall be 8:00 a.m. to 4:00 p.m.

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§1-1010. Person Designated to Accept Exceptions Filed When a Record is Denied.

The individual at the Borough who shall receive and respond to exceptions filed when a record is denied and the requestor disagrees with the denial shall be the Borough Manager.

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§1-1011. Miscellaneous.

1. The Borough shall not ask for or require a purpose or motive for requesting a particular record.
2. The Borough shall not limit the number of public records that may be requested.
3. If the requested record is only kept in electronic form, the Borough shall make it available in paper on request.
4. This Part shall be posted prominently at the Borough municipal building.

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