

TAYLOR BOROUGH

RESOLUTION NO. 4 OF 2008

A RESOLUTION ADOPTING AND/OR AMENDING THE CODE/POLICY OF TAYLOR BOROUGH: REPEALING THE CURRENT POLICY FOR ACCESS TO PUBLIC RECORDS: ADOPTING A NEW POLICY: DESIGNATING AN OPEN RECORDS OFFICER; SETTING TIME LIMITS TO RESPOND TO REQUEST: PROVIDING FEES FOR RECORDS: PROVIDING A POLICY FOR REVIEW OF RECORDS: PROVIDING A FORM OF DENIAL: PROVIDING FOR APPEAL: REPEALING INCONSISTENT ORDINANCE: PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS: the Borough is a duly authorized political subdivision; and

WHEREAS; the Borough has adopted a policy for access to public records; and

WHEREAS; the Legislature has enacted Act 3 of 2008 which sets forth the requirements for access to public records; and

WHEREAS; the Borough has adopted this resolution to comply with said Act.

NOW THEREFORE, BE IT ENACTED, and it is hereby ENACTED AND RESOLVED AS FOLLOWS:

Section 1 Purpose

A.. The purpose of this policy is to assure compliance with Act 3 of 2008, The Pennsylvania Right-to-Know Law, as amended; to provide access to public records of Taylor Borough; to preserve the integrity of Taylor Borough's records; and to minimize the financial impact to the resident of the Taylor Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Section 2 Designated Open Records Officer

A. It is the policy of the Taylor Borough 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 Taylor Borough. Taylor Borough designates the Borough Secretary as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

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

C. The 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.

D. 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 include the date of the request; requester's name, address, and telephone number; certification of United States residency; signature of requester; and if duplication is requested, appropriate payment.

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

F. The Borough shall facilitate a reasonable response to a request for Taylor Borough's 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 the Borough's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.

G. The Borough may by Resolution designate a new Open Records Officer(s) from time to time or at any time.

H. The Borough hereby appoints Clark Robbins as a secondary Open Records Officer in the event the Secretary is unavailable or unable to carry out his/her functions.

Section 3 Response to Request for Public Records

A. The designated employee shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Borough does not respond within five (5) business days of receipt thereof, the request is deemed denied.

B. The response provided by the Borough shall consist of (1) approval for access to the public record; (2) review of the request by the designated employee which may occasion a request for an extension; or (3) denial of all or part of access to the record requested.

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

Section 4 Review of Request

A. 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 thirty (30) days of the notice of review. If the Borough does not respond within thirty (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 requires 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.
- g). The extent or nature of the request precludes a response within the required time period.
- h.) Such other reason as may now be or hereinafter be allowed by law.

B. Upon a determination that one of the factors listed above applies, the Borough shall send written notice to the requester within five business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the 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 30 days, following the five business days allowed for, 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. 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 agency has not provided a response by that date.

Section 5 Denial of Request

A. If access to the record requested is denied, the notice provided by the Taylor Borough shall be in writing as indicated on the form attached hereto entitled Denial of Request to Review and/or Duplicate Taylor Borough Records.

Section 6 Appeal of Denial

A. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth Office of Open Records within fifteen (15) business days of the mailing date of the Borough's notice of denial, or within fifteen (15) days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request.

B. Within 30 days of the mailing date of the final determination of the appeals officer, the requester or Borough may file a petition for review or other document as required by rule of Court with the Court of Common pleas for Lackawanna County. The decision of the Court shall contain findings of fact and conclusion of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision.

C A petition for review under this section shall stay the release of documents until a decision is issued.

Section 7 Fees

A. Fees for duplication of public records are to be as established by the Commonwealth's Office of Open Records. To the extent allowed by law the Borough adopts the fees on Exhibit "A" attached hereto incorporated herein and made a part hereof. The Borough may at its discretion waive fees or amend same by further resolution.

B. 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 the expect cost in advance of fulfilling the request to avoid unwarranted expense of Borough' s resources.

Section 8 Availability of Policy

A. This policy shall be available for review at the Borough office during normal business hours.

Section 9 Repealer.

A. That any Resolution, or part of Resolution, conflicting with this Resolution be and the same is hereby repealed insofar as the same affects this Resolution. No prior requests under any repealed policy are effected herby.

Section 10 . Severability.

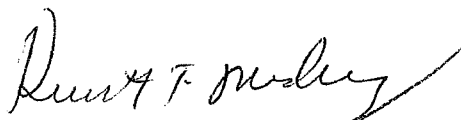
A. If any sentence, clause, section, or part of this Resolution is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution. It is hereby declared as the intent of the Taylor Borough Council that this Resolution would have been adopted has such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 11 . Effective Date.

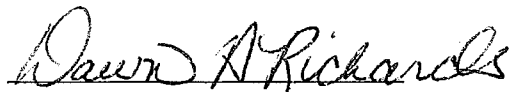
A. This resolution shall become effective on January 1, 2009.

ENACTED AND THIS 10th day of December 2008

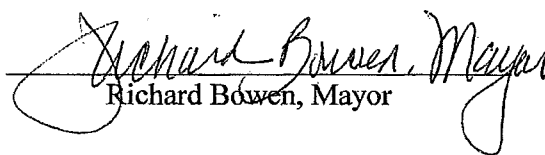
TAYLOR BOROUGH COUNCIL


Kenneth Mickavicz, President

ATTEST:



Approved this 10th day of December 2008.


Richard Bowen, Mayor

Fee Structure

| Record Type | Fee |
|--|--|
| Copies: (A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page) | .25 per page. |
| Certification of a Record: | \$1 per record, not per page. Please note that certification fees do not include notarization fees. |
| Specialized documents : For example, but not limited to, blue prints, color copies, non-standard sized documents | Actual Cost |
| Facsimile/Microfiche/Other Media: | Actual Cost |
| Redaction Fee: | No Redaction Fee May be Imposed |
| Conversion to Paper: | If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)). |
| Postage Fees: | Fees for Postage May Not Exceed the Actual Cost of Mailing |
| <ul style="list-style-type: none">• Statutory Fees: Police departments have the authority to charge up to \$15 per report for providing a copy of a vehicle accident report. 75 Pa.C.S. §3751 (b)(2). | |