

OFFICIAL

**BOROUGH OF FOREST HILLS  
RESOLUTION NO. 997**

A RESOLUTION OF THE BOROUGH OF FOREST HILLS,  
ALLEGHENY COUNTY, PENNSYLVANIA, ESTABLISHING  
POLICIES FOR PUBLIC RECORD REQUESTS PURSUANT TO  
THE RIGHT TO KNOW LAW, 65 P.S. §66.1 *et seq.*, AS  
AMENDED.

WHEREAS, the Right to Know Law, 65 P.S. §66.1 *et seq.*, regulates access to public records;  
and

WHEREAS, Act 100 of 2002, enacted on June 29, 2002, amended the Right to Know Law to  
provide enhanced regulations for access to public records; and

WHEREAS, Section 8(a) of Act 100 of 2002 requires the Borough of Forest Hills (the  
“Borough”) to establish written policies governing requests for the review of public records; and

WHEREAS, the Council of the Borough desires to establish written policies for the request  
and review of public records pursuant to, and consistent with, the Right to Know Law, as amended.

NOW, THEREFORE, the Council of the Borough of Forest Hills hereby resolves as follows:

**Section 1. Short Title:** This Resolution shall be known as the “Forest Hills Borough Public  
Record Request Policy”.

**Section 2. Definitions:** The following words and phrases, when used in this Resolution, shall  
have the meaning given to them in this Section unless the context clearly indicates  
otherwise.

ACT – The Right to Know Law, 65 P.S. §66.1 *et seq.*, as amended.

BOROUGH – The Borough of Forest Hills.

BOROUGH COUNCIL – The Council of the Borough of Forest Hills.

BOROUGH MANAGER – The Manager of the Borough of Forest Hills, or his or  
her designee.

PUBLIC RECORD – Any account, voucher or contract dealing with the receipt or  
disbursement of funds by the Borough or its acquisition, use or disposal of services  
or of supplies, materials, equipment or other property and any minute, order or  
decision by the Borough fixing the personal or property rights, privileges,  
immunities, duties or obligations of any person or group of persons: Provided, That  
the term “public records” shall not mean any report, communication or other paper,  
the publication of which would disclose the institution, progress or result of an  
investigation undertaken by the Borough in the performance of its official duties; it  
shall not include any record, document, material, exhibit, pleading, report,  
memorandum or other paper, access to or the publication of which is prohibited,  
restricted or forbidden by statute, law, or order or decree of court, or which would  
operate to the prejudice or impairment of a person’s reputation or personal security,  
or which would result in the loss by the Borough of federal funds, excepting  
therefrom however the record of any conviction for any criminal act.

RECORD – Any document maintained by the Borough, in any form, whether public  
or not.

REQUESTER – A person who is a resident of the Commonwealth of Pennsylvania  
and requests a record pursuant to the Act.

RESPONSE – Access to a record or the Borough’s written notice granting, denying or partially granting and partially denying access to a record.

**Section 3. Procedure for Access to Public Records of the Borough.**

- a. **General Rule.** Unless otherwise provided by law, a public record of the Borough shall be accessible for inspection and duplication by a requester in accordance with the Act and this Resolution. A public record shall be provided to a requester 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, which are: 8:00 a.m. to 4:30 p.m., Monday through Friday, unless otherwise stated and excluding legal or governmental holidays. Nothing in this Resolution shall provide for access to a record which is not a public record.
- b. **Requests.** All requests for access to records of the Borough must be in writing on such form as may be prescribed from time to time by the Borough Manager. The Borough will not fulfill verbal requests or anonymous requests for access to records. In the event that the requester wishes to pursue the relief and remedies provided for in the Act, the requester must initiate such relief through a written request to the Borough.
- c. **Written Requests.** A written request for access to records of the Borough shall be transmitted to the Borough in person, by mail, or by facsimile. A written request shall be addressed to the Borough Manager, 2071 Ardmore Boulevard, Pittsburgh, PA 15221, and shall include: (1) an identification or description the requested records with sufficient specificity to enable the Borough to ascertain which records are being requested; and (2) the name and address to which the Borough should address its response. A written request need not include any explanation of the requester’s reason for requesting or intended use of the records.
- d. **Creation of a Public Record.** When responding to a request for access, the Borough shall not be required to create a public record which does not currently 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.
- e. **Conversion of an Electronic Record to Paper.** If a public record is only maintained electronically, or in another non-paper media, the Borough shall, upon request, duplicate the public record on paper when responding to a request for access in accordance with this Resolution.

**Section 4. Access to Public Records.**

- a. **General Rule.** The Borough may not deny a requester access to a public record due to the intended use of the public record by the requester.
- b. **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, then 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, then the Borough shall redact from the public record the information which is not subject to access 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 access is able to be redacted. Information which the Borough redacts in accordance with this subsection, shall be deemed a denial under Section 5.c. hereof.

**Section 5. The Borough's Response to Written Request for Access.**

- a. **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; provided, however, the Borough shall provide a response to the written request within 5 business days from the date the written request is received by the Borough. If the Borough fails to provide the response within 5 business days after receipt of the written request for access, then said written request shall be deemed denied.
  
- b. **Exceptions to General Rule.** Upon receipt of a written request for access, if the Borough determines that one of the following situations applies to said request, then the Borough shall send written notice to the requester within 5 business days of the Borough's receipt of the request. This written notice shall include: (1) a statement notifying the requester that the request for access is being reviewed; (2) the reason for the review; and (3) a reasonable date by which a response is expected to be provided. If the date by which the response is expected to be provided is in excess of 30 days, following the 5 business days from the Borough's receipt of the request, then the request for access shall be deemed denied.
  - (1) The request for access requires redaction of a public record in accordance with Section 4. hereof.
  - (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 request pertains to public records subject to access under the Act.
  - (5) The requester has not complied with the Borough's policies regarding access to public records contained in this Resolution.
  - (6) The requester refuses to pay applicable fees authorized by the Act and imposed by Section 8. hereof.
  
- c. **Denial of Record Request.** If the Borough's response is a denial of a written request for access, whether in whole or in part, then the Borough shall send a written response to the requester at the address listed on the written request. This written response denying the written request for access shall include the following:
  - (1) A description of the record requested.
  - (2) The specific reasons for the denial, including a citation of supporting legal authority. If the denial is a result of a determination by the Borough that the record requested is not a public record, then the specific reasons for such determination must be included.
  - (3) The typed or printed name, title, business address, business telephone number and signature of the Borough official or employee who authorized the issuance of the denial.
  - (4) The date of the response.
  - (5) The procedure to appeal the denial under the Act and this Resolution.

- d. **Certified Copies.** If the Borough's response grants a request for access, then the Borough shall, upon request, provide the requester with a certified copy of the public record if the requester pays the applicable fees referenced in Section 8. hereof.

**Section 6 Final Determination.**

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

**Section 7. Judicial Appeal.**

- a. **General Procedure.** Within 30 days of the denial by the Borough under Section 5.c. above or of the mailing date of a final determination under Section 6. above, a requester may file a petition for review (or other document as may be required by rule of court) with the Court of Common Pleas of Allegheny County or bring an action in the local magisterial district having jurisdiction. A requester is entitled to a reasoned decision containing findings 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.
- b. **Notice to Borough.** The Borough shall be served notice of any court or other actions commenced, and shall have an opportunity to respond in accordance with applicable court rules.
- c. **Record on Appeal.** The record before a court shall consist of: the request; the Borough's response; the requester's exceptions, if applicable; the hearing transcript, if any; and the agency's final determination, if applicable.

**Section 8. Fees for Borough Services and Expenses.**

- a. **Schedule of Fees.** The Borough shall charge a requester the following fees related to the fulfillment of a record request:
  - (1) Postage: the actual cost of mailing.
  - (2) Duplication: 10¢ per page for non-color photocopies, computer printouts and facsimile transmissions on regular or legal sized paper. As for other specialized duplication services that are required to fulfill the record request, such as duplication of the request by photocopying, printing from electronic media, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication, the Borough shall charge the requester the prevailing fees for comparable duplication services provided by local business entities.

- (3) **Certification:** \$10.00 for official certification of copies, if the certification is at the behest of the requester and for the purpose of legally verifying the public record.
  - (4) **Conversion to Paper:** If a public record is only maintained electronically or in other non-paper media, the Borough shall charge the requester a fee for converting the document to paper. This fee shall be limited to the lesser of the fee for duplication on paper or for duplication in the native media as provided by Section 8.a.(2) above, unless the requester specifically requests for the public record to be duplicated in the more expensive medium.
- b. **Waiver of Fees.** The Borough may waive the fees for duplication of a public record, including, but not limited to, when: (a) the requester duplicates the public record; or (2) the Borough deems it is in the public interest to do so.
  - c. **Other Fees/Limitations.** Except as otherwise provided by statute, no other fees other than those listed in subsection a. hereof may be imposed upon the requester unless the Borough necessarily incurs costs for complying with the record request, and such fees shall be reasonable. However, the Borough recognizes it may not impose a fee for its review of a record to determine whether the record is a public record subject to access under the Act.
  - d. **Prepayment.** Prior to granting a request for access in accordance with the Act, a requester shall prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100. In no event shall any public records or reports be released until requester first pays the Borough all fees due and payable.

**Section 9. Miscellaneous.**

- a. **Amendments.** The Borough Council shall amend these policies by resolution, adopted from time to time.
- b. **Posting.** A copy of this Resolution shall be conspicuously posted at the Borough's offices.

**Section 10. Effective Date.**

This Resolution shall take effect as of December 26, 2002.

RESOLVED this 18th day of December 2002, by the Council of the Borough of Forest Hills in lawful session duly assembled.

ATTEST:

BOROUGH OF FOREST HILLS

\_\_\_\_\_  
 Steven J. Morus  
 Borough Manager/Secretary  
 (Seal)

By: \_\_\_\_\_  
 Michael M. Belmonte  
 President, Borough Council