

**CLEONA BOROUGH**  
**Lebanon County, Pennsylvania**

**RIGHT TO KNOW POLICY**

**Purpose:**

The Borough Council of Cleona Borough recognizes the importance of public records as the record of the Borough's actions and the repository of information about the Borough. The public has the right under the Pennsylvania Right-to-Know Law to inspect and to procure copies of public records, with certain exceptions, subject to Borough policies and administrative regulations.

**Definitions (65 P.S. § 67.102):**

“Confidential Proprietary Information” shall mean commercial or financial information received by the Borough, including information which is privileged or confidential; and the disclosure of which would cause substantial harm to the competitor of the position of the person that submitted the information.

“Financial Record” shall mean any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use, or disposal of services, supplies, materials, equipment or property; or the salary or payments or expenses, to any officer or employee, including the individuals name and title; and a financial audit report, excluding the audits underlying work papers.

“Personal Financial Information” shall mean an individual's personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual's personal finances.

“Privilege” shall mean the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of the Commonwealth.

“Public Record” shall mean any record, including any financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exceptions in Pennsylvania's Right-to-Know Law (§ 708) or under other federal or state law or regulation, or judicial decree or order.

“Record” shall mean any information, regardless of physical form or characteristics, that documents the Borough's transactions or activity and is created, received or retained pursuant to the law or in connection with a Borough transaction, business or activity,

including: a document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and a data-processed or image-processed document.

“Requestor” shall mean a legal resident of the United States, or an agency, to request access to a record.

“Response” shall mean the Borough’s notice in finding a requestor of a granting of access to a record or the Borough’s written notice to a requestor granting, denying, or partially granting and partially denying access to a requested record.

**Authority (65 P.S. §§ 67.302, 67.305, 67.504, 67.701):**

The Borough Council shall make the Borough’s public records available for inspection and duplication to a requestor, in accordance with law, Borough policy and administrative regulations.

The Borough Council shall exempt from public inspection any material whose disclosure would constitute an invasion of privacy, unless the individual concerned consents in writing to public disclosure of the materials.

**Guidelines (65 P.S. § 67.701) :**

Requestors may inspect and procure copies of the public records of the Borough during the regular business hours of the administrative office.

The Requestor’s right of access does not include the right to remove a record from control or supervision of the Open Records Officer.

A public record shall be provided to the requestor in the medium requested if it exists in that form. Otherwise, it shall be provided in its existing medium.

The Borough is not required to create a public record that does not exist nor to compile, maintain, format or organize a public record in any manner different from that currently maintained by the Borough. If a public record is maintained only in an electronic format, the Borough shall duplicate the record on paper, upon request.

Information shall be made available to individuals with disabilities in an appropriate format, upon request with sufficient advance notice.

**Request for Access (65 P.S. §§ 67.504, 67.505, 67.701, 67.703):**

A request for access to a public record shall be submitted to the Right-to-Know Officer in person, via mail, facsimile, or designated email address.

Each request may include the following information:

1. Identification of a requested record, with sufficient detail.
2. Medium in which the record is requested.
3. Name and address of the person to receive the Borough's response.

The Borough will not fill anonymous verbal or written requests, **except requests related to Borough Council Meeting Minutes**. Written requests do not need to include an explanation why information is sought or the intended use of the information unless otherwise required by law.

A form Right-to-Know request shall be maintained at the administrative office of the Borough and through the Borough's website.

**Response to Request (65 P.S. §§ 67.502, 67.901, 67.901):**

Borough employees shall be directed to immediately forward requests for access to public records to the Open Records Officer.

The Right-to-Know Officer shall review the request, determine if the requested record is a public record, determine whether the Borough has possession, custody or control of the record, and respond promptly, within five (5) business days of receiving the request.

If the Borough fails to respond to a request within five (5) business days, the request for access shall be deemed denied.

If the Borough determines that request will be granted, a response shall be sent within five (5) business days. The response shall include the regular business hours of the administrative office, the medium in which the record is provided, and the assessed fees.

If the Borough determines that more than five (5) business days are required to respond to the request, in accordance with the factors stated in law, notice shall be sent within five (5) business days of receipt of request. The notice shall indicate that the request is being reviewed, the reason for that the review requires an extension, the date when the response is expected, and an estimate of the applicable fees owed when the record becomes available. If a response is not provided by the specified date, it shall be deemed denied on the day following that date.

A requestor may consent in writing to an extension that exceeds thirty (30) days, in which case the request shall be deemed denied on the day following the date specified in the notice if the Open Records Officer has not provided a response by the date.

**Granting of Request (65 P.S. §§67.701, 67.704):**

If the Open Records Officer determines that the request will be granted, the response shall inform the requestor that access is granted and either include information on the regular business hours of the administration office, provide electronic access, or state where

the requestor may go to inspect the records or information electronically at a publically accessible site. The response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required in a specified amount if access to the records will cost in excess of \$100, and the medium in which the records will be provided.

A public record shall be provided to the requestor in the medium requested if it exists in that form. Otherwise, it shall be provided in its existing medium. However, the Borough is not required to permit use of its computers.

The Open Records Officer may respond to a records request by notifying the requestor that the record is available through publicly accessible electronic means or that the Borough shall provide access to inspect the record electronically. If the requestor, within thirty (30) days following receipt of the Borough's notice, submits a written request to have the record converted to paper, the Borough shall provide access in printed form within five (5) days of receipt of the request for conversion to paper.

A public record that the Borough does not possess but is possessed by a third party with whom the Borough has contracted to perform a governmental function and which directly relates to that governmental function shall be considered a public record of the Borough. When the Borough contracts with such a third party, the Borough shall require the contractor to agree in writing to comply with requests for such records to provide the Borough with the requested record in a timely manner to allow the Borough to comply with the law.

If the Open Records Officer determines that the public record contains information both subject to and not subject to access, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer shall redact from the record the information that is not subject to access. The Open Records Officer shall not deny access to a record if information is able to be redacted.

If the Open Records Officer responds to a requestor that a copy of the requested record is available for delivery at the administrative office and the requestor does not retrieve the record within sixty (60) days of the Borough's response, the Borough shall dispose of the copy and retain any fees paid to date.

**Notification to Third Parties (65 P.S. § 67.707):**

When the Borough produces a record that is not a public record in response to a request, the Open Records Officer shall notify any third party that provided the record to the Borough, the person that is the subject of the record, and the requestor.

The Open Records Officer shall notify a third party of a record request if the requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.

**Denial of Request (65 P.S. §§ 67.506, 67.706, 67.901, 67.903):**

If the Open Records Officer denies a request for access to public records, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request. A response denying the request shall include the following:

1. Description of the record requested.
2. Specific reasons for denial, including a citation of supporting authority.
3. Name, title, business address and telephone number and signature of the Right-to-Know Officer who denied the request.
4. Date of the response.
5. Procedure to appeal denial of access.

The Open Records Officer shall not deny access to a public record based on the intended use by the requestor.

The Open Records Officer may deny a request for access to a record if the requestor had made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the Borough.

The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable.

Information that is not subject to access and is redacted from a public shall be deemed a denial.

**Appeal of Denial (65 P.S. § 67.1101):**

If a written request for access to a record is denied or deemed denied, the requestor may file an appeal with the State's Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.

**Fees (65 P.S. § 1307):**

The fees shall be determined by the Pennsylvania Office of Open Records.

Duplicates of public records shall be provided by the Borough upon payment of applicable fees. A list of fees that apply shall be provided to each requestor, posted in the Borough's administrative offices, and be available electronically on the Borough's website.

The Borough shall not assess any fees for staff time or resources used to evaluate or redact a request for access to public records.

The Borough may require prepayment of estimated fees when the fee required to fulfill the request are expected to exceed \$100.00.

**Delegation of Responsibility (65 P.S. §§ 67.502, 67.901, 67.1101):**

The Borough Council shall appoint a Right to Know Officer.

The Right-to-Know Officer shall ensure that the Borough's policy governing access to public records and the list of applicable fees are posted at the administrative office of the Borough and are made available electronically.

The Right-to-Know Officer shall be responsible to:

1. Receive written requests for access to records submitted to the Borough.
2. Review and respond to written requests in accordance with law, Borough policy and administrative regulations.
3. Direct requests to other appropriate individuals in the Borough or in another agency.
4. Track the Borough's progress in responding to requests.
5. Issue interim and final responses to submitted requests.
6. Maintain a log of all record requests and their disposition.
7. Ensure Borough staff are trained to perform assigned job functions relative to requests for access to records.

Upon reviewing a request for access to record, the Open Records Officer shall:

1. Note the date of receipt on the written request.
2. Compute and note on the written request the date on which the five-day period for response will expire.
3. Maintain an electronic or paper copy of the written request for thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

ADOPTED by motion in a public meeting of the Borough Council of Cleona Borough on the 11<sup>th</sup> day of July, 2011, in public session, by a vote of 6 in favor and 0 against.

CLEONA BOROUGH COUNCIL

by: [Signature]  
(Vice) [Signature] ~~Chairman~~ permanet

Attest:

[Signature]  
Secretary

APPROVED this 19<sup>th</sup> day of July, 2011

[Signature]  
John H. Hartman, Mayor