

**MUNICIPALITY OF MONROEVILLE
ALLEGHENY COUNTY, PENNSYLVANIA**

ORDINANCE NO.2448

**A ORDINANCE OF THE MUNICIPALITY OF MONROEVILLE
DESIGNATING AN OPEN RECORDS OFFICER AND
ADOPTING RULES AND REGULATIONS FOR THE
IMPLEMENTATION OF THE PENNSYLVANIA "RIGHT TO
KNOW LAW" AND PROVIDING FOR EXEMPTIONS TO THE
"RIGHT TO KNOW LAW"**

WHEREAS, THE MUNICIPALITY OF MONROEVILLE deems it in the health, safety and general welfare to establish rules and regulations to implement the Pennsylvania "Right to Know Law" and provide for exemptions to the "Right to Know Law".

NOW, THEREFORE, be it resolved by the THE MUNICIPALITY OF MONROEVILLE as follows:

SECTION I: PUBLIC RECORDS:

1. **PURPOSE:**

The Municipality recognizes the importance of public records as the record of the Municipality's actions and the repository of information about this Municipality. The public has the right to access and procure copies of public records, with certain exceptions, subject to law, Municipality policy and administrative regulations.

2. **DEFINITIONS – 65 P.S. Sec. 67.102:**

Financial record – 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 other payments or expenses paid to an officer or employee, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.

Public Record – a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law or under other federal or state law or regulation, or judicial decree or order.

Record – information, regardless of physical form or characteristics, that documents a Municipality transaction or activity and is created, received or retained pursuant to law or in connection with a Municipality 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.

Response – the Municipality's notice informing a requester of a granting of access to a record or the Municipality's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record.

Requester – a legal resident of the United States, or an agency, who requests access to a record.

3. **MUNICIPALITY – 65 P.S. Sec. 67.302, 67.305, 67, 504 and 67.701:**

The Municipality shall make the Municipality's public records available for access and duplication to a requester, in accordance with law, Municipality policy and administrative regulations.

4. **DELEGATION OF RESPONSIBILITY:**

A. **65 P.S. Sec. 67.502:**

The Municipality hereby designates the Administrative Assistant to the Manager as Open Records Officer, who shall be responsible to:

1. Receive written requests for access to records submitted to the Municipality.
2. Review and respond to written requests in accordance with law, Municipality policy and administrative regulations.
3. Direct requests to other appropriate individuals in the Municipality or in another agency.
4. Track the Municipality'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 Municipality staff are trained to perform assigned job functions relative to requests for access to records.

B. **65 P.S. Sec. 67.502, 67.901 and 67.1101:**

Upon receiving a request for access to a 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 day on which the five-day period for response will expire.
3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.
4. If the written request is denied, maintain 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.

5. **GUIDELINES:**

A. **65 P.S. Sec. 67.701:**

Requesters may access and procure copies of the public records of the Municipality during the regular business hours of the administration offices.

A requester's right of access does not include the right to remove a record from the control or supervision of the Open Records Officer.

B. **65 P.S. Sec. 67.302:**

The Municipality shall not limit the number of records requested.

C. **65 P.S. Sec. 67.705:**

When responding to a request for access, the Municipality is not required to create a record that does not exist nor to compile, maintain, format or organize a record in a manner which the Municipality does not currently use.

D. **42 U.S.C. Sec. 12132, 28 CFR Sec. 35.160, 35.164:**

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

E. **65 P.S. Sec. 67.504, 67.505:**

The Municipality shall post at the administration office and on the Municipality's website, if the Municipality maintains a website, the following information:

1. Contact information for the Open Records Officer.
2. Contact information for the State's Office of Open Records or other applicable appeals officer.
3. The form to be used to file a request, with a notation that the State Office of Open Records form may also be used if the Municipality decides to create its own form.
4. Municipality policy, administrative regulations and procedures governing requests for access to the Municipality's public records.

F. **REQUEST FOR ACCESS:**

1. **65 P.S. Sec. 67.504, 67.505 & 67.703:**

- a. A written request for access to a public record shall be submitted on the required form(s) and addressed to the Open Records Officer.
- b. Written requests may be submitted to the Municipality in person, by mail, to a designated facsimile machine, and to a designated email address.

2. **65 P.S. Sec. 67.701, 67.703:**

Each request must include the following information:

- a. Identification or description of the requested record, in sufficient detail.

- b. Medium in which the record is requested.
- c. Name and address of the individual to receive the Municipality's response.

3. **65 P.S. Sec. 67.703:**

- a. The Municipality shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.

G. **FEES – 65 P.S. Sec. 67.1307:**

- 1. Except for the duplication fee established by the state, the Municipality will approve a list of reasonable fees relative to requests for public records. The Municipality shall maintain a list of applicable fees and disseminate the list to requesters.
- 2. No fee may be imposed for review of a record to determine whether the record is subject to access under law.
- 3. Prior to granting access, the Municipality may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed \$100.00.
- 4. The Manager may waive duplication fees when the requester duplicates the record or the Manager deems it is in the public interest to do so.

H. **RESPONSE TO REQUEST:**

1. **65 P.S. Sec. 67.502, 67.702:**

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

2. **65 P.S. Sec. 67.901:**

- a. Upon receipt of a written request for access to a record, the Open Records Officer shall determine if the requested record is a public record and if the Municipality has possession, custody or control of that record.

- b. The Open Records Officer shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer.
- c. The initial response shall grant access to the requested record; deny access to the requested record; partially grant and partially deny access to the requested record; notify the requester of the need for an extension of time to fully respond; or request more detail from the requester to clearly identify the requested material.
- d. If the Municipality fails to respond to a request within five (5) business days of receipt, the request for access shall be deemed denied.

I. **EXTENSION OF TIME – 65 P.S. Sec. 67.901, 67.902:**

- 1. If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in law, written notice shall be sent within five (5) business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension, a reasonable date when the response is expected, and an estimated of applicable fees owed when the record becomes available.
- 2. Upon a thirty (30) day extension for one (1) of the listed reasons does not require the consent of the requester. If the response is not given by the specified date, it shall be deemed denied on the day following that date.
- 3. A requester 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 that date.

J. **GRANTING OF REQUEST:**

- 1. If the Open Records Officer determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the administration office, provided electronic access, or

state where the requester 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 \$100.00, and the medium in which the records will be provided.

2. **65 P.S. Sec. 67.701:**

- a. A public record shall be provided to the requester in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, the Municipality is not required to permit use of its computers.

3. **65 P.S. Sec. 67.701, 67.704:**

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

4. **65 P.S. Sec. 67.506:**

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

5. **65 P.S. Sec. 67.706:**

- a. If the Open Records Officer determines that a 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.

6. **65 P.S. Sec. 67.905:**

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

K. **NOTIFICATION TO THIRD PARTIES:**

1. **65 P.S. Sec. 67.707:**

- a. When the Municipality 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 Municipality, the person that is the subject of the record, and the requester.
- b. The Open Records Officer shall notify a third party of record request if the requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.

L. **DENIAL OF REQUEST - 65 P.S. Sec. 67.901, 67.903:**

- 1. If the Open Record Officer denies a request for access to a record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request. The response denying the request shall include the following:
 - a. Description of the record requested.
 - b. Specific reasons for denial, including a citation of supporting legal Municipality.

- c. Name, title, business address, business telephone number, and signature of the Open Records Officer on whose Municipality the denial is issued.
- d. Date of the response.
- e. Procedure for the requester to appeal a denial of access.

2. **65 P.S. Sec. 67.506:**

- a. The Open Records Officer may deny a request for access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the Municipality.
- b. 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.

3. **65 P.S. Sec. 67.706, 67.903:**

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

4. **65 P.S. Sec. 67.1101:**

- a. If a written request for access to a record is denied or deemed denied, the requester 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.

M. **DOCUMENT MANAGEMENT:**

The following public records shall be maintained by the Municipality for the length of time listed below:

Accident/Incident Reports	Municipality	7 years
Activity Account Records	Municipality	7 years
Architect Contracts	Municipality	10 years

Audit Reports	Municipality	10 years
Bank Statements & Canceled Checks	Municipality	7 years
Construction Contracts	Municipality	10 years

Contracts with a Value of more than \$100,000 5 years after termination

Deeds, Real Estate Sales Agreement and Other Documents Permanent
defining any interest of the Municipality covering its interest
in real property

EEOC Reports	Municipality	3 years
Insurance Policies	Municipality	20 years
Inventory – Equipment	Municipality	2 years
Notes, Mortgages and Bonds	Municipality	Permanent
Personnel Records	Municipality	Permanent
Purchase Orders/Invoices	Municipality	7 years
Time Cards	Municipality	Permanent

No public record may be removed from the control or supervision of the designated custodian.

REFERENCES:

Right-to-Know Law 65 P.S. Section 67.101 et seq.

Americans with Disabilities Act – 42 U.S.C. Sec. 12101, et seq.

Accessibility to Communications, Title 28, Code of Federal Regulations – 28 CFR Sec. 35.160, 35.164

Municipality Policy

SECTION II. EXEMPTED RECORDS

To determine if a requested record is exempt from access, the Open Records Officer will consider and apply each exemption separately.

The following records are exempt from public access by a requester in accordance with the Right-To-Know Law.

1. **LOSS OF FUNDS/PHYSICAL HARM/PERSONAL SECURITY:**

A. When the disclosure of a record would result in the Municipality's loss of federal or state funds or would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or personal security of an individual.

2. **PUBLIC SAFETY:**

A. When the disclosure of a record maintained in connection with the military, homeland security, national defense, law enforcement or other public safety activity would reasonably be likely to jeopardize or threaten public safety or public protection activity, or a record that is designated classified by an appropriate federal or state military Municipality.

3. **SAFETY/SECURITY OF FACILITIES:**

A. When the disclosure of a record creates a reasonable likelihood of endangering the safety or physical security of a building, public utility, resource, infrastructure, facility, or information storage system, which may include:

1. Documents or data relating to computer hardware; source files; software; and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act.
2. List of infrastructure, resources and significant special events, including those defined by the Federal government in the National Infrastructures Protections, that are deemed critical due to their nature and result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counterterrorism measures and plans; and security needs assessments.
3. Building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems; structural elements; technology; communication; electrical; fire suppression; ventilation; water; wastewater; sewage; and gas systems.

4. **COMPUTER SYSTEMS:**

A. When the disclosure of record regarding computer hardware, software and networks, including administrative and technical records, would reasonably be likely to jeopardize computer security.

5. **MEDICAL INFORMATION:**

A. When the disclosure of a record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation; consultation; prescription; diagnosis or treatment; results of tests, to include drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocational rehabilitation; worker's compensation and unemployment compensation; or related information would disclose individually identifiable health information.

6. **PERSONAL IDENTIFICATION INFORMATION:**

A. Disclosure of the following personal identification information:

1. A record containing all or part of an individual's Social Security number; driver's license; driver's license number; personal financial information home, cellular or personal telephone numbers; personal e-mail addresses; employee number or other confidential personal identification number.
2. A spouse's name, marital status, beneficiary or dependent information.
3. The home address of a law enforcement officer or judge.

B. Personal information that must be disclosed includes the name; position; salary; actual compensation or other payments or expenses; employment contract; employment-related contract or agreement; and length of service of a public official or Municipality employee.

C. The Open Records Officer may redact from a record the name or other identifying information relating to an individual performing an undercover or covert law enforcement activity.

7. **CERTAIN EMPLOYEE INFORMATION:**

A. Disclosure of the following records relating to a Municipality employee:

1. A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation.
2. A performance rating or review.
3. The result of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency. The result of a civil service or similar test administered by a local agency shall not be disclosed if restricted by a collective bargaining agreement. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.
4. The employment application of an individual who is not hired by the Municipality.
5. Workplace support services information.
6. Written criticisms of a Municipality employee.
7. Grievance material, including documents related to discrimination or sexual harassment.
8. Information regarding discipline, demotion or discharge contained in a personnel file, except information that applies to the Municipality's final action that results in demotion or discharge.

8. **LABOR RELATIONS/NEGOTIATIONS/ARBITRATION:**

A. Labor Relations/Negotiations/Arbitration. Disclosure of a record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings. In the case of the arbitration of a dispute or grievance under a collective bargaining agreement, disclosure of an exhibit entered into evidence at an arbitration proceeding or a transcript of the arbitration or the opinion.

B. This exemption does not apply to a final or executed contract or agreement between the parties in a collective bargaining agreement, or to the final award or order of an arbitrator in a dispute or grievance procedure.

9. **PREDESIONAL DRAFTS:**

A. Disclosure of the draft of a bill, Ordinance, regulation, statement of policy, management directive, or ordinance, or their amendments, prepared by or for the Municipality.

10. **PREDECISIONAL DELIBERATIONS:**

A. Disclosure of a record that reflects:

1. The internal, predecisional deliberations of the Municipality, its Council members, employees or officials, or predecisional deliberations between Council members, employees, or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation; legislative proposal; legislative amendment; contemplated or proposed policy or course of action; or any research, memos or other documents used in the predecisional deliberations, subject to law governing open meetings.

Public records do include a record of any of the above that is not exempt from access by law and which is presented to a quorum for deliberation in accordance with law governing open meetings; a written or Internet application or document that has been submitted to request Commonwealth funds; and the results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion.

2. The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.

11. **TRADE SECRET/CONFIDENTIAL PROPRIETARY INFORMATION:**

A. Disclosure of a record that constitutes or reveals a trade secret or confidential proprietary information.

12. **PERSONAL NOTES/WORKING PAPERS:**

A. Disclosure of notes and working papers prepared by or for a Municipality public official or employee use solely for that official's or employee's own personal use, including telephone message slips; routing slips; and other materials that do not have an official purpose.

13. **DONOR IDENTITY:**

A. Disclosure of records that would disclose the identity of an individual who lawfully makes a donation to the Municipality, unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a Municipality public official or employee, including lists of potential donors compiled by the Municipality to pursue donations; donor profile informational; or personal identifying information relating to a donor.

14. **CRIMINAL INVESTIGATIONS:**

A. Disclosure of a record of the Municipality or an agency relating to or resulting in a criminal investigation, including:

1. Complaints of potential criminal conduct other than a private criminal complaint.
2. Investigative materials, notes, correspondence, videos and reports.
3. A record that includes the identity of a confidential source or of a suspect who has not been charged with an offense to whom confidentiality has been promised.
4. A record that includes information made confidential by law or court order.
5. Victim information, including any information that would jeopardize the safety of a victim.
6. A record that if disclosed would reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges; deprive an individual of the right to a fair trial or impartial adjudication; impair the ability to locate a defendant or codefendant; hinder an agency's ability to secure an arrest, prosecution or conviction; or endanger the life or physical safety of an individual.

B. This exemption does not apply to information contained in a police blotter as defined in law and utilized or maintained by the State Police, local, campus, transit or

port Municipality police department or other law enforcement agency, or in a traffic report except as provided by law.

15. **NONCRIMINAL INVESTIGATIONS:**

A. Disclosure of a Municipality record relating to a noncriminal investigation, including:

1. Complaints submitted to the Municipality.
2. Investigative materials, notes, correspondence and reports.
3. A record that includes the identity of a confidential source, including individuals subject to the Whistleblower Law.
4. A record that includes information made confidential by law.
5. Work papers underlying an audit.
6. A record that if disclosed would reveal the institution, progress or result of a Municipality investigation, except the imposition of a fine or civil penalty; the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement unless the agreement is determined to be confidential by a court; deprive a person of the right to an impartial adjudication; constitute an unwarranted invasion of privacy; hinder an agency's ability to secure and administrative or civil sanction; or endanger the life or physical safety of an individual.

16. **EMERGENCY COMMUNICATIONS:**

A. Disclosure of records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings, unless the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

17. **DNA/RNA:**

A. Disclosure of DNA and RNA records.

18. **CORONER/MEDICAL EXAMINER:**

A. Disclosure of specific records and reports of a coroner or medical examiner.

19. **DRAFT MINUTES:**

A. Disclosure of draft minutes of any Municipality meeting until the next regularly scheduled Council meeting, minutes of an executive session, and any record of discussions held in executive session.

20. **REAL ESTATE APPRAISALS/FEASIBILITY STUDIES:**

A. Disclosure of the contents of real estate appraisal, engineering or feasibility estimate, environmental reviews, audits or evaluations made for or by the Municipality relative to the leasing, acquiring, or disposing of real property or an interest in real property; the purchase of public supplies or equipment included in the real estate transaction; and construction projects.

B. This exemption does not apply to the documents listed above once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property, the purchase of public supplies, or a construction project.

21. **LIBRARY RECORDS:**

A. Disclosure of the library and archive circulation and order records of an identifiable individual or groups of individuals.

22. **ARCHEOLOGICAL SITE/ENDANGERED SPECIES:**

A. Disclosure of a record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.

23. **PRE-CONTRACT AWARD DOCUMENTS:**

A. Disclosure of a proposal pertaining to Municipality procurement or disposal of supplies, service or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offerer requested in an invitation for bid or request for proposals to demonstrate the bidder's or offerer's economic capability; or the identify of members, notes and other records of Municipality proposal evaluation committees established under law relating to competitive sealed proposals.

24. **INSURANCE COMMUNICATIONS:**

A. Disclosure of a record or information relating to a communication between the Municipality and its insurance carrier, administrative service organization or risk management office.

B. This exemption does not apply to a contract with an insurance carrier, administrative service organization or risk management office, or to financial records relating to the provision of insurance.

25. **SOCIAL SERVICES:**

A. Disclosure of a record or information identifying an individual who applies for or receives social services, the type of social services received by an individual, an individual's application to receive social services, or eligibility to receive social services.

26. **GENERAL ASSEMBLY CORRESPONDENCE:**

A. Disclosure of correspondence between an individual and member of the General Assembly and records accompanying the correspondence that would identify an individual requesting assistance or constituent services, except for correspondence between a member of the General Assembly and a principal or lobbyist under law.

SECTION III. FINANCIAL RECORDS:

1. The listed exemptions do not apply to financial records, except that the Open Records Officer shall redact the portions of a financial record protected under exemptions 1, 2, 3, 4, 5, 6, 16, or 17.

SECTION IV. AGGREGATED DATA:

1. The listed exemptions do not apply to aggregated data maintained or received by the Municipality, except for data protected under exemptions, 1, 2, 3, 4, or 5.

SECTION V. LAW ENFORCEMENT ACTIVITY:

1. The Open Records Officer will not disclose the identity of an individual performing an undercover or covert law enforcement activity.

SECTION VI. If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such decision

shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion.

SECTION VII: This Ordinance shall become effective immediately upon approval.

SECTION VIII: The proper Municipality officials are authorized and directed to execute any and all documents necessary to affect this Ordinance

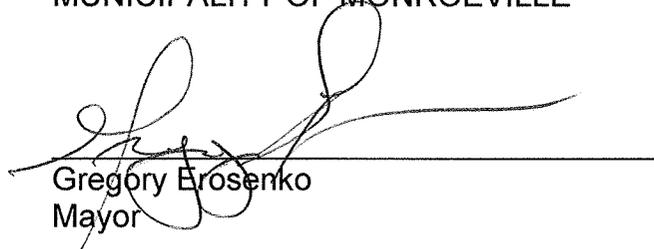
ORDAINED AND ENACTED into law this 13th day of January, 2009.

ATTEST:

MUNICIPALITY OF MONROEVILLE



Marshall W. Bond
Municipal Manager



Gregory Eroserko
Mayor

ENTERED INTO LEGAL BOOK ON: January 23, 2009

RESPONSIBILITIES OF A RIGHT-TO-KNOW OFFICER

Under the new law, every Commonwealth and Local Agency is required to appoint a Right-to-Know Officer. The RTK Officer should be a senior level employee who understands the Agency and have a working knowledge of the records the Agency possesses.

The law requires that RTK officers perform specific functions under the law:

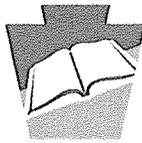
- Receive requests submitted to the agency.
- Direct requests to other appropriate persons within the agency or to the appropriate persons in another agency.
- Track the agency's progress in responding to requests.
- Issue interim and final responses under this act.

When an RTK Officer receives a request for a public record they should do all of the following:

- STAMP the date of receipt on the written request.
- Compute the day on which the five-day response expires and make a notation of that date on the written request.
- 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 should be maintained for 30 days
- If an appeal is filed keep the records until a final determination is issued under section 1101(b) or the appeal is deemed denied.

Create a file and keep all of the following:

- The original request.
- A copy of the response.
- A record of written communications with the requester
- A copy of other communications. (This subparagraph only applies to Commonwealth agencies.)



pennsylvania

OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR : _____

STREET ADDRESS : _____

CITY/STATE/COUNTY (Required): _____

TELEPHONE (Optional): _____

RECORDS REQUESTED:

**Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

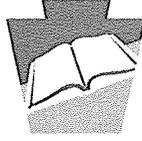
DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*



pennsylvania

OFFICE OF OPEN RECORDS

Right-To-Know Response Form

Re: Sample Granted Request

Date

Citizen Name

Address

Telephone Number

Dear [*Citizen*],

Thank you for writing to [***Name of Public Body or Agency***] with your request for information pursuant to the Pennsylvania Right- To-Know law.

On [***Insert date received by agency***], you requested documents that [***insert description of information requested, or restate their request***]. Your request is granted and the requested responsive documents are enclosed.

Respectfully,

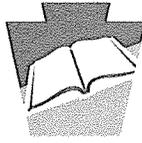
RIGHT-TO-KNOW OFFICER NAME [***information required to be typed***]

TITLE [***information required to be typed***]

BUSINESS ADDRESS [***information required to be typed***]

BUSINESS TELEPHONE [***information required to be typed***]

SIGNATURE



pennsylvania

OFFICE OF OPEN RECORDS

Right-To-Know Response Form

Re: Sample Granted in Part/Denied in Part

Date
Citizen Name
Address
Telephone Number

Dear [**Citizen**],

Thank you for writing to [**Public Body**] with your request for information pursuant to the Pennsylvania Right-To-Know law.

On [**date received by agency**], you requested [**description of information requested, or restate their request**]. Your request is granted in part and denied in part as follows. Your documents are enclosed.

However, the [**Agency**] has withheld information that is exempt from disclosure by law. We redacted [**Describe redacted information: Examples....social security number, academic transcripts, medical information, or other exemptions**] as outlined in Section 708(b).

This information is exempt from disclosure under [**CITE applicable section of the law. If precluded from release by other state or federal law, rule or regulation, you must cite to that legal authority.**]

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

[**For Criminal Records**] to the District Attorney of the County, Name, Address and Telephone Number. [**For Legislative Records**]: Contact information

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response, as outlined in Section 1101. If you have further questions, please call [**Right-To-Know Officer**]. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

RIGHT-TO-KNOW OFFICER NAME [**information required to be typed**]

TITLE [**information required to be typed**]

BUSINESS ADDRESS [**information required to be typed**]

BUSINESS TELEPHONE [**information required to be typed**]

SIGNATURE



pennsylvania

OFFICE OF OPEN RECORDS

Right-To-Know Response Form

Re: Sample Denial

Date

Citizen Name

Address

Telephone Number

Dear [**Citizen**],

Thank you for writing to [**Public Body**] with your request for information pursuant to the Pennsylvania Right-To-Know law.

On [**Date received by agency**], you requested [**Describe information requested, or restate their request**]. Your request is denied for the following reasons, as permitted by Section 708 of the Act.

The [**Agency**] has denied your request because [**describe specific type of information, such as medical records, academic transcripts or other exemption items**] is exempt from disclosure. [**Must 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 Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

[**For Criminal Records**] appeal to the District Attorney Name, Address and Telephone Number.

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response. Section 1101. If you have further questions, please call [**Right-To-Know Officer**]. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

RIGHT-TO-KNOW OFFICER NAME [*information required to be typed*]

TITLE [*information required to be typed*]

BUSINESS ADDRESS [*information required to be typed*]

BUSINESS TELEPHONE [*information required to be typed*]

SIGNATURE

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OFFICE OF OPEN RECORDS

Fee Structure

Section 1307 of the Right-To-Know law requires the Office of Open Records to establish a fee structure for Commonwealth Agencies and Local Agencies. To promote uniformity among all agencies, the Office of Open Records encourages Judicial and Legislative agencies, which can set their own fees, to adopt the following fee structure. All agencies are advised that duplication fees can be waived.

The Office of Open Records establishes the following fee structure in accordance with the law. The Law requires that the Office of Open Records review the fee structure biannually. The Office will review the fee structure in June of 2009. Any updates will be placed on our website by June 30, 2009.

Fee Structure

Record Type	Fee
<p>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)</p>	Between .10 per page to a maximum .25 per page.
<p>Certification of a Record:</p>	An agency may impose reasonable fees 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. The Office of Open Records recommends no more than \$5 per record to certify a public record. Please note that certification fees do not include notarization fees.
<p>Specialized documents: (For example, but not limited to, blue prints, color copies, non-standard sized documents)</p>	Actual Cost
<p>Facsimile/Microfiche/Other Media:</p>	Actual Cost
<p>Redaction Fee:</p>	No Redaction Fee May be Imposed
<p>Conversion to Paper:</p>	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)).
<p>Postage Fees:</p>	Fees for Postage May Not Exceed the Actual Cost of Mailing

Please Also Be Advised:

- **Statutory Fees:** If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page under 42 P.S. § 21051. 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). Philadelphia police may charge up to \$25 per copy. *Id.* at (b)(3). State police are authorized to charge "\$5 for each copy of the Pennsylvania State Police full report of investigation." 75 Pa.C.S. §1956(b).
- **Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the Agency may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.
- **Enhanced Electronic Access :** If an agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the agency may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by this Act. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. **The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency.** Please submit any request to the
Office of Open Records
400 North Street
Harrisburg , PA. 17120.
- **Fee Limitations:** Except as otherwise provided by statute, the law states that **no other fees may be imposed** unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record, legislative record or financial record subject to access in accordance with this Act. No fee may be charged for searching for or retrieval of documents. An agency may not charge staff time or salary for complying with a RTK request.
- **Prepayment:** Prior to granting a request for access in accordance with this Act, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.
 - Once the request is fulfilled and prepared for release, the Office of Open Records recommends that the agency obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the agency provides the records and the requester fails to submit payment.

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