



RESOLUTION

CITY OF OIL CITY
PENNSYLVANIA

RESOLUTION NO.	2008-30
INTRODUCED	December 17, 2008
PASSED	December 17, 2008

A RESOLUTION ADOPTING A POLICY REGARDING ACCESS TO PUBLIC RECORDS FROM THE CITY OF OIL CITY

WHEREAS, Governor Rendell signed the new Right-To-Know Law, Act 3 of 2008, on February 14, 2008, amending the process by which citizens can access public records; and,

WHEREAS, Act 3 of 2008 fully takes effect on January 1, 2009; and

WHEREAS, Act 3 of 2008 requires municipalities to establish a written policy regarding access to public records; and

WHEREAS, the City of Oil City desires to adopt an Open Record Policy in compliance with state law, a copy of which is attached and made a part of this record.


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Oil City that the City hereby adopts the Open Records Policy in the form hereto attached.

ATTEST:

APPROVED:



Thomas D. Rockovich
City Clerk



Sonja L. Hawkins
Mayor

CITY OF OIL CITY, PA
OPEN RECORDS POLICY
December, 2008

Purpose

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 the City of Oil City, to preserve the integrity of City's records, and to minimize the financial impact on the general public regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of those public records.

Public Records

A "Public Record" is defined as any record, including financial records, of a Commonwealth or local agency that is not delineated as exempt under Section 708 of Act 3 of 2008, is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree, or is not protected by a privilege.

Records are also information, regardless of physical form or characteristics, that document a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes 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.

Inspection

Public records are open to inspection and for duplication during normal office hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, except for holidays, subject to the regulations set forth herein.

Open Records Officer

The designated "Right-To-Know Officer" shall be the City Manager, who may be assisted by other City employee(s) to process public record requests. The City Manager is responsible for minimizing, where possible, the financial impact to the City regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Upon receipt of a written open records request in his/her office, the City Manager or his/her designee shall:

1. Note the date of receipt on the written request.
2. Compute the day on which the five-day period will expire and make a notation of that date on the written request.

3. 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 shall be maintained for thirty (30) days or, if an appeal is filed, until a final determination is issued or until the appeal is deemed denied.

Open Records Request

All requests for City records must be done in written form with the proper contact information being provided. No verbal or anonymous requests will be accepted. A written request for access to records may be submitted in person, by mail, by e-mail, or by facsimile and must be provided on the City's (Exhibit A) or the Commonwealth's Right-To-Know Request Form. A written request must be addressed to the City Right-To-Know Officer (City Manager). All other City employees who receive a request shall immediately forward the request for records to the City Manager or his/her office. Regardless of the form received, no employee other than the Right-To-Know Officer or his/her designee shall determine if the request is in its proper form. A written request should identify or describe the records sought with sufficient specificity to enable the City to ascertain which records are being requested and should include the name and address to which the City should address its response. A written request need not include any explanation of the requestor's reason for requesting, or intended use of the requested records, unless otherwise required by law.

Redaction

While the City will disclose public records subject to access, the public should be aware that it is not required to synthesize, compile, maintain, format, or organize records in response to a request. When a public record exists, the City will separate and exclude any records which are not public records or which are otherwise excluded or exempted from the definition of public records. If information which is not subject to access is an integral part of a public record and cannot be separated, the City shall redact from the public record the information which is not subject to access, and the response shall grant access only to the information which is subject to access.

Response

Within five (5) business days from the date the request is received, the City will (1) provide the records requested; (2) deny the request by notifying the requestor in writing; (3) depending on the records being requested, provide some of the records and deny others that are not subject to disclosure; or (4) send a written notice that the records cannot be provided within the five (5) business days. If it is determined that the request cannot be honored within the five (5) business days, a notice will be issued specifying a date when the records may be expected, but in no case, will the time be longer than thirty (30) additional days. If no response is made within the five business days of receipt of written request, the request shall be deemed denied. The initiation of the five (5) day response time shall not begin until the written request is actually received in the office of the Open Records Officer during normal business hours as delineated in the "Inspection" section above, i.e. written requests that are received by fax or electronic means after normal business hours shall not be considered "received" until the next business day.

Fees

A request for copies of public records or information produced from those records must be accompanied by payment of fees to cover the direct costs of duplication if the cost of duplication is estimated to be \$100.00 or more. Reasonable fees to cover direct costs incurred by the City will be charged, as set by the Pennsylvania Office of Open Records, and as contained in Exhibit B attached hereto.

Denials

If the City denies a written request for information, whether in whole or in part, a written response will be sent by the Right-To-Know Officer to the requestor with (1) a description of the record requested, (2) the specific reasons for denial, including a citation of supporting legal authority, (3) contact information for the Right-To-Know Officer, (4) a date of response, and (5) a procedure to appeal the denial.

Appeals

Requestors receiving a denial either in part or in whole of a submitted request have the right to appeal that denial of information in writing to the Appeals Office, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120 for a review.

Within thirty (30) days of the mailing date of the final determination of the appeals officer, a requestor or the City may file a petition for review as required by rule of court with the Venango County Court of Common Pleas. In compliance with Act 3 of 2008 (Right-to-Know Law), the decision of the court shall contain findings of fact and conclusions of law based upon evidence as a whole. The decision shall clearly and concisely also explain the rationale for the decision. A petition for review shall stay the release of documents until the decision of the court is issued.

Records Transmission to Requestor

The requestor of the public records shall have the option to have the records sent to him/her through the U.S. Postal Service at actual cost or pick the records up in the City Manager's Office. If the latter option is chosen, the City shall contact the requestor when the records are available, and the requestor shall then be obligated to pick up the records within sixty (60) days of the notice of availability. After that sixty (60) day period, the City shall have no obligation to retain the copied records for the requestor.

Amendments to Policy

This Policy may be subject to amendment from time-to-time to meet any criteria established by the Pennsylvania Office of Open Records or to better meet the intent of Act 3 of 2008, also known as the Pennsylvania Right-to-Know Law.

**CITY OF OIL CITY, PA
21 SENECA STREET
OIL CITY PA 16301**

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

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

NAME OF REQUESTOR (Required): _____

STREET ADDRESS (Required): _____

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:



pennsylvania
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.

Fee Structure

Record Type	Fee
<p>Copies:</p> <p><i>(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)</i></p>	<p>Between .10 per page to a maximum .25 per page.</p>
<p>Certification of a Record:</p>	<p>\$1 per record, not per page. Please note that certification fees do not include notarization fees.</p>
<p>Specialized documents: For example, but not limited to, blue prints, color copies, non-standard sized documents</p>	<p>Actual Cost</p>
<p>Facsimile/Microfiche/Other Media:</p>	<p>Actual Cost</p>
<p>Redaction Fee:</p>	<p>No Redaction Fee May be Imposed</p>

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

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.