

BOROUGH OF PALMERTON
OPEN RECORDS POLICY

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 Palmerton Borough; to preserve the integrity of Palmerton Borough's records; and to minimize the financial impact to the residents of the borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Availability of Records

- A. Whenever possible, public records will be available for inspection and copying at the Borough Office, 443 Delaware Avenue, Palmerton, PA 18071, during normal business hours, Monday through Friday, 8:30 a.m. to 4:30 p.m., with the exception of holidays.
- B. Some public records require time to comply and to copy, but will normally be available within five (5) business days of the request. The Borough is not obligated to provide access to records which do not fall under the Open Records Act exceptions to "public records" as set forth in the Open Records Law.
- C. The Borough shall make a good faith effort to fulfill verbal requests for access to public records. However, in the event the requester wishes to pursue the relief and remedies provided for in the Open Records Law (Act 3 of 2008), the requester must initiate such relief with a written request to the Borough.
- D. Written requests to inspect and/or duplicate public records shall only be on a form provided by the Borough or the Office of Open Records and addressed to the Open Records Officer, 443 Delaware Avenue, Palmerton, PA 18071. A copy of the form is attached hereto, made a part hereof, and identified as "Exhibit A". This written request may be presented in person, by mail, by fax or by e-mail.
- E. 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. A public record shall be provided to a requester in the medium requested if available; otherwise, it shall be provided in the medium in which it exists.
- F. The fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records or the Borough of Palmerton, whichever is greater. The Borough may, at its discretion, waive the fees.

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 expected cost in advance of fulfilling the request to avoid unwarranted expense of Borough resources.

Fees must be paid by cash or certified check or money order payable to Borough of Palmerton.

Guidelines for Compliance

The Borough of Palmerton hereby designates the Borough Manager and Assistant Manager as the Open Records Officer of Borough documents. It is the policy of the Borough to require the presence of a designated employee when public records are examined and inspected. Further, the Borough will charge reasonable fees for the duplication of public records of the Borough or the Police Department. In accord with the Right to Know Act, the Open Records Officer will comply with the following guidelines to the extent practical:

- A. Upon receiving a request for a public record, the Open Records Officer 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, and (3) maintain a copy of the written request for the record until the matter has been concluded.
- B. The Borough Manager/Assistant Manager may designate certain employee(s) to process public record requests.
- C. 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 on forms prepared and provided by the Borough, a copy of which is attached to this Policy, or on the form of the Commonwealth's Office of Open Records. No other form will be accepted.** All requests shall include the date of the request; requestor's name, address, and telephone number; certification of United States residency; signature of requestor; and if duplication is requested, appropriate payment.
- D. The Open Records Officer, or designated employee, shall make a good faith effort to determine whether each record requested is a public record. The Open Records Officer may seek legal advice from the solicitor concerning the request for access to Borough records or redact legally protected information from the records.
- E. The Open Records Officer or designated employee shall respond to the requestor 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.

- F. 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; or (3) denial of access to the record requested.
- G. The response provided by the Borough shall consist of (1) approval for access to the public record; (2) redaction of portions of the public record; or (3) request additional time for the retrieval of the stored record in a remote location; (4) inform party that additional time will be necessary because of staffing limitation; (5) inform the party that legal review is necessary to determine whether the record is subject to access under the Act; or (6) request an extension of time from the requestor, in writing.
- H. 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:
 - (1) 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;
 - (2) The record requires retrieval from a remote location;
 - (3) A timely response cannot be accomplished due to staffing limitations;
 - (4) A legal review is necessary to determine whether the record requested is a public record;
 - (5) The requestor has failed to comply with the Borough's policy and procedure requirements; or
 - (6) The requestor refuses to pay the applicable fees.
 - (7) The extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed above applies, the Borough shall send written notice to the requestor within five business days of receipt of the request for access. The notice shall include a statement notifying the requestor 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 records 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 requestor has agreed in writing to an extension to the date specified in the notice. If the requestor 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.

- I. If access to the record requested is denied, the notice provided by the Borough shall be in writing as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate Palmerton Borough Records."
- J. Deny access to the public record under the provisions of Act 3 of 2008 including, but not limited to, failure to comply with the Borough's policies regarding access to records, the requestor's refusal to pay applicable fees authorized by this Act, deny the record as it is one of the exceptions under Section 708 of the Public Records Act, deny the request as the record is protected by privilege, deny the request as the record is exempt from disclosure under any other federal or state law, regulation or judicial order or decree, deny the record as it is a disruptive request, deny the record as it may request information which could lead to disaster or potential damage.
- K. Within 30 days of the mailing date of the final determination of the appeals officer, the requestor or Borough may file a petition for review or other document as required by rule of court with the court of common pleas for Carbon County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review under this section shall stay the release of documents until a decision is issued.
- L. This policy shall be available for review at the Borough office.

Effective Date

This policy shall become effective January 1, 2009.



Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it is required should an appeal be necessary. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: _____ (Attn: AORO)

Date of Request: _____ Submitted via: Email U.S. Mail Fax In Person

PERSON MAKING REQUEST:

Name: _____ Company (if applicable): _____

Mailing Address: _____

City: _____ State: _____ Zip: _____ Email: _____

Telephone: _____ Fax: _____

How do you prefer to be contacted if the agency has questions? Telephone Email U.S. Mail

RECORDS REQUESTED: *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. Use additional sheets if necessary. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law.*

DO YOU WANT COPIES? Yes, electronic copies preferred if available
 Yes, printed copies preferred
 No, in-person inspection of records preferred (*may request copies later*)

Do you want certified copies? Yes (*may be subject to additional costs*) No
RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

Please notify me if fees associated with this request will be more than \$100 (or) \$_____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? Yes No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: Granted Partially Granted & Denied Denied Cost to Requester: \$_____

Appropriate third parties notified and given an opportunity to object to the release of requested records.