

RESOLUTION NO : 842
INTRODUCED BY: NICK LORENZO
ADOPTED: JANUARY 7, 2009

**RESOLUTION
OF THE TOWNSHIP OF ROSTRAVER
ESTABLISHING POLICIES AND PROCEDURES FOR THE
TOWNSHIP OF ROSTRAVER PURSUANT TO THE COMMONWEALTH OF
PENNSYLVANIA AMENDED RIGHT-TO-KNOW LAW; ESTABLISHING A
TOWNSHIP CONTACT PERSON AND AUTHORIZING THE COLLECTION OF FEES
FOR THE COPYING AND DISSEMINATION OF PUBLIC DOCUMENTS**

WHEREAS, the Commonwealth of Pennsylvania has amended its Right-to-Know Law and has established that the same is applicable to municipalities such as the Township of Rostraver; and

WHEREAS, the Township of Rostraver has formulated and previously adopted by Resolution certain Policies and Procedures which have been amended in accordance with the terms and conditions set forth in the amended law.

NOW, THEREFORE, be it resolved at a public meeting duly assembled, that the Township of Rostraver hereby establishes Policies and Procedures, a copy of which is attached hereto and made a part hereof and incorporated by reference as though fully set forth at length herein.

BE IT FURTHER RESOLVED that the Township hereby nominates the Township Secretary as its contact person pursuant to the requirements set forth in the Right-to-Know Law.

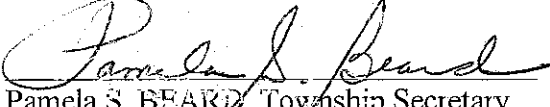
BE IT FURTHER RESOLVED that the Township has implemented the costs and time frames set forth in the Right-to-Know Law by virtue of its policy.

RESOLVED into a Resolution, this 7th day of January, 2009.

BOARD OF COMMISSIONERS
TOWNSHIP OF ROSTRAVER

BY: 
Nick LORENZO, President

ATTEST:


Pamela S BEARD, Township Secretary

TOWNSHIP OF ROSTRAVER

Open Records Law

Policies and Procedures

The purpose of this policy is to assure compliance with Act 3 of 2008. Act 3 of 2008 commonly known as the "Open Records Law" fundamentally changes the "Right-to-Know Law" by mandating a presumption of disclosure and shifting the burden of denial to the government, with those and other provisions of the new law to be effective January 1, 2009. The Open Records Law substantially amended the Act of June 21, 1957 (P.L. 390, No. 212), the Act 2002-50 (P.L. 663, No. 50), 65 P.S. §§ 66.1-66.9, commonly referred to as the "Right-to-Know Law," and therefore requires the Township to amend these policies and procedures in order to ensure compliance with same.

It is the policy of the Township of Rostraver (hereinafter "the Township") to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the Township pursuant to public requests for the same. Further, the Township hereby designates the Township Manager as the responsible party for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

I. PROCEDURE

A. Requests.

(1) **Oral requests.** The Act does not require that the Township respond to oral requests. The Township may refuse to accept any oral request.

(2) **Anonymous requests.** The Act does not require that the Township respond to Anonymous requests. The Township shall refuse to accept any written request that does not identify the Requester.

(3) **Non-anonymous written requests.** The Act requires that the Township act upon each non-anonymous written request when such request is submitted in person, by mail, or by facsimile or e-mail. Requests submitted by an electronic method (e-mail) or by facsimile are permitted by the Act.

(i) **Contents of a request.** The Act sets forth various specifications for the contents of a written request. Thus, the request must include the name of the Requester and the address to which the Township should address its Response. The request should identify or describe the

Records sought with sufficient specificity to enable the Township to ascertain which Records are being requested.

- (ii) **Forms.** The Township may create or adopt forms for use by Requesters in preparing written requests. As such, in order to ensure compliance with these requirements the attached forms should be utilized when making a request to the Township.

(4) Citizenship requirement. The Act provides that the Township provide a Requester with access to a Public Record if the Requester is a citizen of the United States. The Township may require that the Requester produce photographic identification, to determine proof of citizenship.

B. Submittal of Open Records Requests.

(1) The Township office is designated by the Township Board as the recipient of all Open Records Requests addressed to the Township. All Open Records Requests are to be addressed to:

Township of Rostraver
Rostraver Municipal Building
201 Municipal Drive
Belle Vernon, PA 15012
Phone: 724-929-8877
Fax: 724-929-5009
E-mail: commissioners@rostraver.us

The Township shall post this information to its website and shall post it at a location that is publicly accessible.

(2) The five (5) business day period does not begin to run until the Township's designated Open Records Office has received a request. If an Open Records Request is submitted to another municipal office or to some official or employee of the Township other than the Open Records Official or an employee assigned to the Open Records Office, the five (5) business day period has not yet begun.

(3) In the event a request for access to public records appears to be submitted, but not on the approved application form of the Township, the Township shall forward the appropriate form for application upon receipt of the request so that the request can be properly submitted to the Township.

C. Township's Duty to Provide a Prompt Response to an Open Records Request.

(1) Five (5) business-day period. Section 3.3(a) of the Act provides that, upon receipt of a written Open Records Request, the Township must make a good faith effort to determine if the requested Record is a Public Record and to respond as promptly as possible under the circumstances existing at the time of the request, and that this time shall not exceed five (5) business days from the date the written request is received by the Township's Open Records Official. The Act provides that either a final or an interim written response must be made within five (5) business days from the date that the Open Records Official received the request. If the Open Records Office fails to respond within that time period, the Open Records Request is Deemed Denied.

(2) 30-calendar-day extension period. Although, in general, the Act and this Policy contemplate that Requesters will receive a Response within the five (5) business day period, it also provides the Township with certain specific exceptions to invoke a single extension of time, which may not exceed 30 calendar days. If an extension is invoked and then there is no timely response, the Open Records Request is deemed denied.

D. Processing of Open Records Requests by the Open Records Office.

(1) Upon receiving an Open Records Request, the Open Records Office shall, at a minimum, promptly complete the following tasks:

(a) Date-stamp the Open Records Request.

(b) Compute the day on which the five (5) business day period will expire and make a notation of that date

(c) Make a paper copy of the Open Records Request, including all documents submitted with it and the envelope (if any) in which it was received.

(d) Create an official file for the retention of the original Open Records Request.

(2) For purposes of determining the five (5) business-day period:

(a) A business day shall be from 9:00 a.m. until 4:00 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the offices of the Township are closed for all or part of a day due to a holiday; due to severe weather (such as a blizzard or ice storm); due to natural or other disaster; or due to the

request or direction of local, state, or federal law enforcement officials.

(b) Any Open Records Request received by the Open Records Office after the close of its regular business hours shall be deemed received by that office on the following business day. Thus, for example, a facsimile transmission received at 6:00 p.m. on a Friday is deemed to be received on the following Monday (unless that Monday is a holiday).

(c) For purposes of determining the end of the five (5) business day period, the day that an Open Records Request is received (or deemed received) is not counted. The first day of the five (5) business day period is the Township's next business day. For example, if an Open Records Request is received on a Tuesday, the first three days of the period are Wednesday, Thursday, and Friday. The fourth and fifth business days would be Monday and Tuesday of the following week. The Response is due by the close of business on that Tuesday.

E. Responses

(1) The act of providing a Requester with physical access to a document or a copy of the requested Record, in the Open Records Office, is a "Response" for purposes of this Open Records Policy. Unless the Township issues written policies to the contrary, only the Open Records Official possesses the authority to permit this access.

(2) Where timely access is not provided in accordance with (1), the Act requires that the Township's Response be in writing. The Open Records Official has the duty to prepare and send written Responses. In preparing a written Response, the Open Records Official may consult, as necessary, with the Solicitor, and other Township officials and employees having control, knowledge or concern of the Records.

(3) The Township is not required to create a Public Record that does not already exist, nor is the Township required to compile, maintain, format, or organize a Public Record in a manner in which the Township does not currently do so.

(4) The Open Records Office shall send written Responses to Requesters by one of the following, in its discretion: United States mail, facsimile transmission; electronic transmission; overnight or parcel delivery service; or, courier delivery.

F. Physical Access to Public Records.

(1) The Open Records Official has the authority to grant and deny physical access to a public record and the discretion to impose reasonable restrictions on the time, place and nature of access

(2) The Act requires that, unless otherwise provided by law, the Public Records of the Township must be accessible for inspection by any Requester during the regular business hours of the Township. Unless the Township adopts written policies to the contrary, the regular business hours of the Township for purposes of the Act are from 9:00 a.m. until 4:00 p.m. on any business day.

(3) Access shall be provided by the Open Records Official either in the Open Records Office or some other reasonable location, at the discretion of the Open Records Official, depending on the size, complexity or other circumstances of the request.

G. Interim Written Responses.

(1) The Act requires that the Township must provide a Response to an Open Records Request within five (5) business days unless one or more specific conditions are satisfied and the Township gives the Requester written notice that additional time will be required. That notice is referred to as an "Interim Response."

(2) The circumstances in which the Township may obtain an extension of time in which to provide a final Response are:

(a) The request for access requires a redaction of a record;

(b) The request for access requires the retrieval of a record stored in a remote location;

(c) A timely response to the request for access can not be accomplished due to bona fide and specified staffing limitations;

(d) A legal review is necessary to determine whether the record is a record subject to access under the Act;

(e) The requester has not complied with the agency's policies regarding access to records;

(f) The requester refuses to pay applicable fees authorized by the Act; or

(g) The extent of nature of the request precludes a response within the required time period.

H. Written Final Responses.

(1) Types of final Responses. The Act provides for three types of written final Responses:

- (a)** The Township grants the entire Open Records Request.
- (b)** The Township refuses the entire Open Records Request.
- (c)** The Township grants part of the Open Records Request and refuses the remainder.

(2) Deemed denials. The failure of the Township to make a timely final Response is a Deemed denial under the terms of the Act

(3) Final Responses that deny Open Records Requests, either in whole or in part.

(a) A Response that denies an Open Records Request (either in whole or in part) shall list all of the specific reasons relied upon by the Township for denying the Open Records Request and shall include one or more citations of supporting authority.

(b) In the event that the Township's Response is a denial or a partial denial, the Response shall also contain a notice informing the Requester of his or her right to file Exceptions, and shall set forth the name and mailing address of the Office of Open Records.

(c) Inaction by the Township is not a Response, even when it results in a Deemed denial

I. Redaction.

(1) "Redaction" means the eradication of a portion of a record while retaining the remainder.

(2) Method. A Record shall be redacted when parts of the Record are not Public Record or are protected and shall not be disclosed as set forth in the Act. Redaction shall be performed in such a way as to maintain the confidentiality or security of the protected information. Thus, for instance, merely crossing out text usually does not suffice if the underlying words can be made out by careful examination. An example of effective redaction is to create a photocopy of an existing document; to completely obliterate the selected text using a black marker; and to photocopy that document (so that the obliterated text on the first copy cannot be read through the marker ink). Other techniques may also be

used. In complying with the Open Records Law's redaction requirements, the Township is not required to alter their original records

J. Duplication of Public Records.

(1) A Public Record shall be accessible for duplication by a Requester. The Township does not make duplication equipment available to a Requester but shall provide other means by which a Requester may obtain copies, through Township personnel.

(2) The Township will assign its own staff to make the duplications requested by the Requester; or it may contract for duplication services and require that the Requester pay the contractor for those services. The Township shall charge the Requester a reasonable fee(s) that is consistent with the prevailing charges in the geographic location where the duplication occurs. Resolution of the Township Board of Commissioners shall establish such fees from time to time.

5. EXCEPTIONS.

a. Right to file Exceptions.

(1) If a Request is denied or deemed denied, whether in whole or in part, the Requester has the right to file Exceptions with the Office of Open Records

(2) An individual who makes either an oral request or an anonymous request lacks standing to file Exceptions. Any Exceptions filed by such individual shall be dismissed for that reason.

(3) There is no right to file Exceptions to an interim decision to extend the response period by up to 30 days.

b. Filing procedures.

The Office of Open Records shall follow the following process for handling Exceptions. This process shall include the following steps:

(1) Date-stamp the Exceptions letter.

(2) Retain the envelope and any documents that accompany the Exceptions letter.

(3) If necessary, consult with counsel for the Office of Open Records

(4) May schedule and conduct hearings, if necessary.

c. Time for filing Exceptions.

(1) Exceptions to the Office of Open Records written denial must be filed within 15 business days of the mailing date of the written denial.

(2) Exceptions to a deemed denial must be filed within 15 calendar days of the date the request is deemed denied.

(3) Exceptions that are untimely filed may be dismissed for that reason

d. Contents of Exceptions.

(1) Exceptions must state the reasons upon which the Requester asserts that the Record is a Public Record. Reasons not set forth in writing within the applicable 15-day period are deemed to be waived and may be disregarded by the Office of Open Records.

(2) Exceptions should address the reason stated for denying the request. Exceptions that fail to comply with this requirement may be dismissed for that reason

e. Submission of written exceptions to the Office of Open Records.

Exceptions shall be set forth in writing and shall be correctly addressed and submitted to the Office of Open Records. The Office of Open Records address is:

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
717-346-9903
Email: openrecords@state.pa.us

Exceptions submitted to any other official, office, or address are defective and do not stop the running of the 15-day Exceptions period.

II. APPEALS TO COURT OF COMMON PLEAS.

Where the Office of Open Record's final determination upholds the refusal of access to a Record, the Requester may, within 30 days of the mailing date of that final determination, file an appeal in the Court of Common Pleas of Westmoreland County.

III. RETENTION AND DISPOSAL OF PUBLIC RECORDS.

There are statutes, regulations and other laws that regulate the Township's retention and disposition of Records. The Township shall follow the mandates of these laws and regulations. Neither the Act nor this policy modifies, rescinds or supersedes any retention or disposition schedule established pursuant to law or other regulation.

IV. WRITTEN POLICIES AND REGULATIONS.

The Township, the Open Records Official and the Open Records Exceptions Official each have the discretion to adopt any other written policies consistent with the Act and these Policies and Procedures, as amended from time to time, that they deem to be necessary or prudent, consistent with the Open Records Law. Thus, for example, written policies can be adopted governing the manner in which access to records will be provided, the need and adequacy of proof of identification, restrictions or prohibitions on the removal of records, the availability of Township duplicating equipment and associated staff, and the ability of a Requester to bring his or her own photocopying or other equipment into the offices of the Township.

V. FEES AND CHARGES.

(a) Fees and charges as permitted by the Act are hereby established by the Fee Schedule attached as Schedule A and may be amended by the Township Board of Commissioners from time to time as appropriate, using the standards provided in the Act.

(b) The Act requires that, in various circumstances, the Township shall redact information from records. The Act provides that additional fees may be imposed if the Township necessarily incurs costs for complying with a request. However, such fees must be reasonable. The Open Records Official may establish such fees, depending upon the volume and complexity of the Records requested.

(c) The Township may, in its discretion, insist that payment be made by certified check. In the alternative, the Township may insist that a personal or business account check must first have cleared. If the fee is for copying only, the Township may allow access to the Records but shall refuse to make copies until the fee is paid. If the fee is for redaction or some other service that is necessary in order for access to be provided, the Township may deny access until the fee is paid.



SCHEDULE A

Fees for duplication of public records shall be as follows:

- (a) Photocopying: 25 cents (\$0.25) per page.
- (b) Duplication of public electronic and/or tape records: actual cost to the Township for duplicating the public record.
- (c) Certified copies: one dollar (\$1.00) per page
- (d) Postage: actual cost to the Township for mailing the public record the Township may in its discretion waive fees.

TOWNSHIP OF ROSTRAVER

Rostraver Municipal Building
201 Municipal Drive
Belle Vernon, PA 15012
Phone: 724-929-8877
Fax: 724-929-5009
E-mail: commissioners@rostraver.us

REQUEST FOR PUBLIC RECORDS

In accordance with the Township of Rostraver's Open Records Policy, the following information is required to request any public record.

1. The request is to:

_____ access copies of records.

_____ procure copies of records

_____ access to the documents and a copy of those documents

Note: A request to access records does not include a right to remove a record from the control or supervision of the Open Records Officer.

2. Requestor Information (All information must be legible)

Name: _____

Address: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address: _____

3. Information Requested

All records requested must be identified and/or described with sufficient specificity so that we may ascertain whether we have these documents and how to locate them. (Note: Each record request must be specific to one record. Multiple record requests are permitted but must be on separate forms.)

4. Medium in which the record is requested (fees apply – Please see Schedule A)

Photocopy or electronic scan/print

Electronic e-mail

5. I certify that I am a resident of the United States of America. (Note: Appropriate documentation may be requested.)

Signature of Requester

TOWNSHIP OF ROSTRAVER

Response to Request

Date of Response: _____

Your request for the stated record was received on _____

In response to your request, we submit the following:

_____ The public record you requested has been accepted and is being processed. Please remit \$ _____.

_____ We have determined that your request requires an extension of time due to the complicated nature of the assimilation of data. You should expect a response on our about _____.

_____ Your request has been denied for the following reason(s):

This denial is based upon the following legal authority:

You have the right to appeal this decision. If you appeal, you must either:

1. Within fifteen (15) days of the notice of denial or deemed denial, file exceptions with the Office of Open Records in accordance with the Township's Open Records Request Policy and Procedures at:

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
717-346-9903
Email: openrecords@state.pa.us

If you file exceptions, the Office of Open Records has thirty (30) days in which to respond to your exceptions, unless an extension is granted by the parties. The Office of Open Records may decide to conduct a hearing with that time assist in the making of the decision.

---OR---

Within thirty (30) days of the notice of denial, or within thirty (30) days of the Office of Open Records final decision (in the event that you have filed exceptions), file a petition for review in the Westmoreland County Court of Common Pleas.

TOWNSHIP OF ROSTRAVER

By: _____
Open Records Officer
Township of Rostraver

TOWNSHIP OF ROSTRAVER
PUBLIC RECORD REVIEW/DUPLICATION REQUEST

Office Record re: PUBLIC RECORD REVIEW/DUPLICATION REQUEST

To be complete by: _____ (within five days of receipt of request)

Date received: _____

Action Taken:

_____ Approved

Date of approval: _____

_____ Denied

Date notice mailed: _____

_____ Additional Review

Date notice mailed: _____