

City of Butler

ACCESS TO PUBLIC RECORDS POLICY

The purpose of this policy is to assure compliance with the Pennsylvania's Right-to-Know Law, 65 P.S. 66.1 §§ *et seq.*, as amended by Act No. 3 of 2008, to provide access to public records of the City of Butler, to preserve the integrity of its records and to minimize the financial impact to the persons and residents of the service area of the City of Butler and the Commonwealth regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Section 1. The City of Butler hereby designates the following as its Open-records Officer (ORO). The ORO may be reached as follows:

Office of the City Clerk ORO – Mindy Gall
140 West North Street
Butler, PA 16001
(724) 285-4124 x 205
OfficeofCityClerk@cityofbutler.org

Section 2. A copy of this policy, the contact information of the ORO, the contact information of the Office of Open Records, and the form for records requests approved by the adoption of this Policy and the form approved by the Office of Open Records, shall also be posted on the City's website and at the City Building pursuant to Section 504 of Act No. 3.

Section 3. The obligations of the ORO shall be as follows:

- (a) Note the date of receipt of written request.
- (b) Compute the day on which the five-day period for a response will expire and make a notation of that date on the written request.
- (c) 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 at least 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) or the appeal is deemed denied.
- (d) Create a file for the retention of the original request, a copy of the response, a record or written communications with the requester and a copy of other communications. See Section 502(b)(2)(I)–(iv) of Act No. 3.
- (e) Provide the requester with an appropriate response or determination as required by Act No. 3.

Section 4. It is the policy of the City to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of its public records.

- Section 5. All requests for Records under Act No. 3 made to the City shall be:
- A. Addressed to the appropriate ORO as designated above; and,
 - B. Submitted in writing and utilizing the form approved herein and entitled "Public Record Review/Duplication Request". Completed forms may be submitted in person, by mail, by facsimile, or by e-mail. The City will NOT honor any verbal or anonymous requests.
- Section 6. Employees other than the designated OROs who receive requests are to direct such requests to the appropriate ORO.
- Section 7. Written requests should identify or describe the record(s) sought with sufficient specificity to enable the City to ascertain which records are being requested and shall include the name and address to which the City shall address its response.
- Section 8. In no case shall the City be required to create public record which does not exist to compile, maintain, format or organize a public record in a manner in which the City does not currently compile, maintain, format or organize such records.
- Section 9. The time for response by the ORO shall not exceed five (5) business days from the date the written request is received by him or her. If the ORO fails to respond within five (5) business days of receipt of the written request, the request shall be deemed denied.

The following guidelines apply to the response:

- (a) Determination – Upon receipt of a written request for access, the Open-records Officer shall determine if one of the following applies:
 - (1) The request for access requires redaction of a record in accordance with section 706;
 - (2) The request for access requires the retrieval of a record stored in a remote location;
 - (3) A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
 - (4) A legal review is necessary to determine whether the record is a record subject to access under this act;
 - (5) The requester has not complied with the City's policies regarding access to records;
 - (6) The requester refuses to pay applicable fees authorized by this act; or
 - (7) The extent or nature of the request precludes a response within the required time period.

(b) Notice.

- (1) Upon determination that one of the factors listed in subsection (a) applies, the Open-records Officer shall send written notice to the requester within five business days of receipt of the request for access under subsection (a).
- (2) The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of 30 days following five business days allowed for in section 901, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice.
- (3) If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the City has not provided a response by that date.

(c) Denial.

If the response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:

- (1) A description of the record requested.
- (2) The specific reasons for the denial, including a citation of the supporting legal authority.
- (3) The typed or printed name, title, business address, business telephone number and signature of the Open-records Officer on whose Township the denial is issued.
- (4) Date of the response.
- (5) The procedure to appeal the denial of access under this act.

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records within 15 business days of the mailing date of the City's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the City for delaying or denying the request. The address of the Office of Open Records to effectuate the filing of such an appeal is:

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

(d) Approval/Certified Copies or Access.

If the response grants a request for access, the City shall, upon request, provide the requester with a copy or certified copy record if the requester pays the applicable fees under Section 11 below.

If the City's response to a request states that copies of the requested records are available for delivery at the office of the City and the requester fails to retrieve the records within 60 days of the City's response, the City may dispose of any copies which have not been retrieved and retain any fees paid to date.

See Section 902 through 905 of Act No. 3.

Section 10. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the City. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the City's public records from the possibility of theft, destruction and/or modification. The presence of a designated employee is required when public records are examined and inspected.

Section 11. Fees and Expenses.

- (a) Photocopying: 25 cents (\$.25) per page.
- (b) Duplication of public electronic and/or tape records: actual cost to the City of duplicating the public record.
- (c) Certified copies: \$1.00 per page.
- (d) Postage: actual cost to the City of mailing the public record.
- (e) 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 from the requester fifty percent (50%) of the expected cost in advance of fulfilling the request.

Section 12. Effective Date.

This Policy shall take effect on December 20, 2018.

**POLICY STATEMENT OF THE CITY OF BUTLER AMENDED AT THE MEETING
HELD ON DECEMBER 20, 2018.**