

OFFICIAL  
BOROUGH OF DRAVOSBURG  
RESOLUTION NO. 2009-01

A RESOLUTION OF THE BOROUGH OF DRAVOSBURG, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA, CREATING AN OPEN RECORDS POLICY AS REQUIRED BY ACT 3 OF 2008.

WHEREAS, the Pennsylvania General Assembly enacted Act 3 of 2008 that requires local agencies to create an Open Records Policy; and

WHEREAS, the Borough of Dravosburg currently has an Open Records Policy and desires to update the Policy in order to comply with Act 3 of 2008.

NOW, THEREFORE, BE IT RESOLVED AND ADOPTED By the Council of the Borough of Dravosburg, County of Allegheny, Commonwealth of Pennsylvania, and it is hereby RESOLVED and ADOPTED by authority of the same, that the Open Records Policy for the Borough of Dravosburg shall be as follows:

**OPEN RECORDS POLICY FOR BOROUGH OF Dravosburg**

**1. 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 Borough of Dravosburg; to preserve the integrity of the Borough of Dravosburg'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.

**2. Designated Open Records Officer:**

It is the policy of the Borough 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 Borough of Dravosburg. The Borough of Dravosburg hereby designates the Borough Secretary as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

A. The Borough Secretary, with approval from Borough Council, may designate certain employee(s) to process public record requests.

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B. The Borough Secretary is responsible for minimizing, where possible, the financial impact to the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

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 and 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 designated employee shall make a good faith effort to determine whether each record requested is a public record.

E. The Borough shall facilitate a reasonable response to a request for Dravosburg Borough's public records. In no case is the Borough expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Borough's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.

F. The 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.

G. 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 employer; or (3) denial of access to the record requested.

H. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Borough. The designated employee shall cooperate fully with the requester, while also

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taking reasonable measures to protect Borough public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.

I. Fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records. Fees for duplication of public records shall be the maximum fee as established by the Commonwealth's Office of Open Records.

J. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$10, the designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Borough resources.

K. 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:

(a) 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;

(b) The record requires retrieval from a remote location;

(c) A timely response cannot be accomplished due to staffing limitations;

(d) A legal review is necessary to determine whether the record requested is a public record;

(e) The requestor has failed to comply with the Borough's policy and procedure requirements; or

(f) The requestor refuses to pay the applicable fees; or

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(g) 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 reasons for the 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 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.

L. If access to the public record requested is denied, the notice provided by the Borough shall be in writing as indicated on the form attached hereto entitled "Borough of Dravosburg - Denial of Request to Review and/or Duplicate."

M. If the request is denied or deemed denied, the requestor may file an appeal with the Commonwealth's Office of Open Records within fifteen (15) of the mailing date of the Borough's notice of denial, or within fifteen (15) days of a deemed denial. The appeal shall state the grounds upon which the requestor asserts that the records is a public record and shall address any grounds stated by the agency for delaying or denying the request.

N. 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 of Allegheny 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.

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O. This policy shall be available for review at the Borough Office.

3. **Repealer.** Any and all Resolutions, or parts of Resolutions, in conflict with this Resolution are hereby repealed to the extent of such conflict.


4. **Severability.** If any sentence, clause, section, or part of this Resolution is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution. It is hereby declared as the intent of the Council of the Borough of Dravosburg that this Resolution would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

5. **Effective Date.** This Resolution shall become effective on the 1st day of January, 2009.

RESOLVED AND ADOPTED by the Council of the Borough of Dravosburg, County of Allegheny and Commonwealth of Pennsylvania, meeting in regular and public session, this 20th day of January, 2009.

ATTEST:

BOROUGH OF Dravosburg

  
\_\_\_\_\_  
Brenda Honick  
Borough Secretary

By:   
\_\_\_\_\_  
Jay McKelvey  
President of Council

BOROUGH OF DRAVOSBURG  
PUBLIC RECORDS REVIEW/DUPLICATION REQUEST

Please print legibly.

Date of Request: \_\_\_\_\_

Requestor's Name: \_\_\_\_\_

Requestor's Address: \_\_\_\_\_

Requestor's Telephone: \_\_\_\_\_

I request review/duplication (circle as appropriate) of the following records. **Important:** you must identify or describe the records with sufficient specificity to enable the Borough to determine which records are being requested. Use additional sheets if necessary.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I certify that I am a resident of the United States of America.

\_\_\_\_\_  
Signature of Requestor

This request may be submitted in person, by mail, by facsimile or e-mail to:

Borough of Dravosburg  
226 Maple Avenue  
Dravosburg, PA 15034

BOROUGH OF DRAVOSBURG  
DENIAL OF REQUEST TO REVIEW AND/OR DUPLICATE

Date of Denial: \_\_\_\_\_

Requestor's Name: \_\_\_\_\_

Requestor's Address: \_\_\_\_\_

RE: Denial of Request to Review and/or Duplicate \_\_\_\_\_

Date of Request: \_\_\_\_\_

Dear \_\_\_\_\_:

Please be advised that your request to review/duplicate the following records:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

has been denied for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_

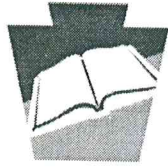
This denial is based upon the following legal authority:

\_\_\_\_\_

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

1. Within fifteen (15) days of the notice of denial or deemed denial, file an appeal with the Commonwealth of Pennsylvania, Department of Community & Economic Development, Office of Open Records. The appeal shall state the grounds upon which the requestor asserts that the records is a public record and shall address any grounds stated by the Borough for delaying or denying the request.

\_\_\_\_\_  
Borough of Dravosburg  
Open Records Officer



# 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
<b>Copies:</b>	Between .10 per page to a maximum .25 per page.
<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>	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.
<b>Certification of a Record:</b>	
<b>Specialized documents:</b> For	Actual Cost



example, but not limited to, blue prints, color copies, non-standard sized documents

**Facsimile/Microfiche/Other**

**Media:**

Actual Cost

**Redaction Fee:**

No Redaction Fee May be Imposed

**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.