



CITY OF BETHLEHEM, OFFICE OF OPEN RECORDS "RIGHT-TO-KNOW LAW" POLICY

The purpose of this Policy is to ensure compliance with the Pennsylvania Right-to-Know Law ("RTKL"), 65 P.S. § 67.101 et seq., as amended, to provide access to public records of the City of Bethlehem ("City"), to preserve the integrity of the City's records, and to minimize the financial impact to the City's residents regarding the resources utilized in the receipt and processing of public record requests and the retrieval, duplication and production of public records.

GENERAL RULES

1. Requests for public records shall be submitted to the City's Open-Records Officer. The Open-Records Officer shall transmit requests to appropriate persons within the City or to appropriate persons in another agency, track the City's progress in responding to requests and issue interim and final responses under the RTKL.
2. The City's Open Records Officer does not answer or provide records requested from the Bethlehem Parking Authority or the Bethlehem Zoning Hearing Board. Requests for records from those agencies must be sent by the requester to those agencies.
3. The City's Open-Records Officer is responsible for minimizing, where possible, the financial impact to the City regarding the resources utilized in the receipt and processing of requests and the retrieval, duplication and production of public records.
4. The RTKL provides that the City is not required to create a record which does not currently exist or to compile, maintain, format or organize information or data to create a responsive record.
5. The RTKL does not require the City to answer questions. Instead, the City is merely required to produce paper or electronic documents, as the case may be.

HOW TO MAKE A REQUEST

6. Requests for access to, inspection of or duplication of records shall:
 - a. be in writing using the City's request form;
 - b. identify and describe each record sought with sufficient specificity that enables the City to ascertain the records being requested;
 - c. be addressed to the "Open Records Officer;"
 - d. be submitted in person, by mail, by e-mail or by facsimile; and
 - e. include the name and address of the requester to which the City should address its response.

7. The request form used to make requests for records shall be either:
 - a. the City's RTKL form found at:
<http://bethlehempa.gov/about/RighttoKnow/RIGHTTOKNOWREQUESTFORM.pdf>;

 - b. The City's form found in the Office of the City Solicitor, 10 East Church Street, Bethlehem, PA 18018;

 - c. the PA Office of Open Records form found at:
[http://www.bethlehem-pa.gov/about/RighttoKnow/RIGHTTOKNOWREQUESTFORM\(1-1-09\).pdf](http://www.bethlehem-pa.gov/about/RighttoKnow/RIGHTTOKNOWREQUESTFORM(1-1-09).pdf)

8. A requester may submit a request for access to records:
 - a. by mail to:
City of Bethlehem
Open Records Officer
C/O Office of the City Solicitor
10 East Church Street
Bethlehem, PA 18018;
 - b. by facsimile to: 610-865-7205, Attn: Open Records Office; or
 - c. by email a request to: righttoknowrequest@bethlehem-pa.gov

AFTER THE REQUEST IS RECEIVED

9. Upon receipt of a written request for access to a record, the Open-Records Officer shall make a good faith effort to determine if the record requested is a public record and whether the City has possession, custody or control of the identified record. While a requester will generally be presumed to be entitled to access a record in the possession and control of the City, the City may deny access if the record is exempt from access pursuant to Section 708(b) of the RTKL, 65 P.S. § 67.708(b), or if the record is protected by a privilege, or if the record is exempt from disclosure pursuant to Federal or State law or regulation or judicial order or decree.

10. Generally, the City must respond to the written request within five (5) business days beginning the business day after the City's Open-Records Officer receives the written request. If the City fails to send the response within five (5) business days of receipt of the written request, the request for public records shall be deemed denied without further reply needed from the City.

11. The City can extend the five (5) day response period in the following cases:

- a. the request for access requires 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 cannot 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 Right-to Know Law;
- 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 Right-to-Know Law; or
- g. the extent or nature of the request precludes a response within the required time period.

12. Upon a determination that one of the seven factors in 11 above applies, the City's Open-Records Officer shall send written notice to the requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date not to exceed thirty days that a response is expected to be provided and, if possible, 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 thirty-five (35) calendar days from the date the original request is received by the Open Records Officer, the request for public records shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. 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.

13. The City requires the presence of a designated City employee when public records are examined and inspected by the requester in person and to charge reasonable fees for duplication of the City's public records.

14. If the City denies a written request for access to a record, it shall issue its denial in writing. The written denial shall include:

- a. a description of the record requested;
- b. specific reasons for the denial, including a citation of supporting legal authority;
- c. the typed or printed name, title, business address, business telephone number and signature of the open records officer on whose authority the denial is issued;
- d. date of the response; and
- e. the procedure to appeal the denial of access under the RTKL.

15. If a requested record is not a public record under the RTKL, the City reserves the option to deny access to the entire record even if it contains some information that the law does not protect from disclosure.

16. If a request for access is granted, the record shall be provided to the requester in the medium requested if the record exists in that medium, provided the requester, at his/her/its sole expense, furnishes a blank, usable compact disc (CD),

digital versatile disc (dvd), usb-based storage device, or the like, and the City has the physical hardware capable to transfer the record to such medium. All applicable fees, including reproduction costs, certification fees, and envelopes and postage, shall be paid before access to the requested record(s) is allowed. In the case where inspection of a record is requested or allowed, but not a copy, the City, in its sole discretion, reserves the rights to require, and to schedule the presence of the Open-Records Officer or another City employee to be present to protect City records from the possibility of theft and alteration. In the event a requester fails to pay all required fees and/or pick up the requested record within sixty (60) of the City's notification that the records are available, the City may dispose of any copies which have not been retrieve and retain any fees paid to date. In the event the requested records are destroyed as aforesaid, the City may require the requester to reimburse the City for the copies destroyed as a pre-condition for considering a renewed request for substantially the same records not to be a disruptive request.

17. The City may also respond to a written request by notifying the requester that the record is available through publicly accessible electronic means or that the City will provide access to inspect the record electronically. If the requester is unwilling or unable to access the record electronically, the requester may, within 30 days following receipt of the City's notification, submit a written request to the City to have the record converted to paper or an electronic medium. The City shall provide access to the record in printed form within five days of the receipt of the written request for conversion to paper.

FEEES FOR DUPLICATION RECORDS

18. A requester shall pay applicable fees in order to receive access to the record requested. Fees shall include unpaid fees in connection with previous requests for records.

a. Fees for duplication of public records shall be as follows:

- i. Photocopying: 25 cents (\$0.25) per page.
- ii. Duplication of public electronic and/or tape records: actual cost to the City of duplicating the records.
- iii. Certified copies: \$1.00 per page.

- iv. Envelopes and Postage: actual cost to the City of mailing.
 - v. Specialized Documents: (For example, but not limited to, blueprints, color copies, non-standardized sized documents) – actual cost.
- b. The City may in its discretion waive fees.
 - c. In the event the estimated cost of fulfilling a request is expected to exceed \$100.00, the Open-Records Officer shall obtain fifty percent (50%) of the expected costs in advance of fulfilling the request. The requester shall pay the balance prior to receiving access to the requested records.

APPEALS FROM DENIALS OF REQUESTS

19. If a written request for access to a City record is denied or deemed denied, the requester may file an appeal within fifteen (15) business days of the mailing date of the City's response or a deemed denial, whichever comes first. The appeal shall state the ground 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.

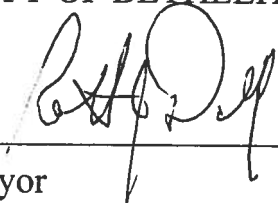
- a. For appeals of decisions involving records of criminal matters arising in Lehigh County, an appeal must be made in writing to Lehigh County District Attorney, RTKL Appeals Officer, Lehigh County Courthouse, 455 West Hamilton Street, Allentown, Pennsylvania 18101.
- b. For appeals of decisions involving records of criminal matters arising in Northampton County, an appeal must be made in writing to Northampton County District Attorney, RTKL Appeals Officer, Northampton County Courthouse, Office, 669 Washington St Easton PA 18042-7492.

c. For appeals regarding all other requests, an appeal must be in writing to Office of Open Records Commonwealth Keystone Building 400 North St., 4th Floor Harrisburg, PA 17120-0225.

20. This policy shall take effect immediately.

Approved:
CITY OF BETHLEHEM

Date: 4/13/16



Mayor