

Chapter 30

RECORDS

[HISTORY: Adopted by the Borough Council of the Borough of Seven Valleys as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Open Records Policy

[Adopted 10-6-2008 by Ord. No. 2008-4¹]

§ 30-1. Purpose.

The purpose of this article is to establish policy to assure compliance with the Pennsylvania Right-to-Know Law, as amended by Act 3 of 2008²; to provide access to public records of Seven Valleys Borough; to preserve the integrity of Seven Valleys Borough's records; and to minimize the financial impact to the residents of the Borough of Seven Valleys regarding the resources utilized in the receipt and processing of public records requests and the retrieval and copying of public records.

§ 30-2. Fees and costs; designation of Open Records Officer; guidelines.

The Borough of Seven Valleys requires the presence of a designated employee when public records are examined and inspected. The Borough also shall charge reasonable fees for duplication of public records of the Borough. The Borough shall also charge labor costs of any employee which exceeds 15 minutes to fulfill the requests for public records. Seven Valleys Borough 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 may designate any employee(s) to process public records requests.
- B. The Borough Secretary shall designate alternates to serve as the Open Records Officer in the event of absence.
- C. The Borough Secretary shall minimize, where possible, the financial impact to the Borough regarding the resources utilized in the receipt and processing of public records requests and the retrieval and copying of the public records. The following information shall be posted at the Seven Valleys Borough Office, and on the Borough's website:
 - (1) Contact information for the Open Records Officer.

1. Editor's Note: This ordinance also repealed former Ch. 30, Records, which consisted of Art. I, Policy and Rules for Access, adopted 6-2-2003 by Ord. No. 2003-2, and provided that it shall apply to requests for examination and inspection of public records beginning on 1-1-2009.

2. Editor's Note: See 65 P.S. § 67.101 et seq.

- (2) Contact information for the Office of Open Records or other applicable appeals officer.
 - (3) A form which may be used to file a request.
 - (4) All regulations, policies and procedures of the agency relating to the Pennsylvania Right-to-Know Law.
- D. All requests for public records of the Borough under this policy shall be specific and describe 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; requester's name, address, telephone number, certification of United States residency, signature of requester, and, if duplication is requested, appropriate payment.
- E. The Open Records Officer or designated employee shall make a good faith effort to determine whether each record requested is a public record.
- F. The Borough shall facilitate a reasonable response to a request for Seven Valleys Borough's public records. In no case shall the Borough be 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 requirement of the Pennsylvania Right-to-Know Law.
- G. The Open Records Officer or designated employee shall respond to the requester within five business days of the written request. If the Borough does not respond within five business days of receipt thereof, the request is deemed denied.
- H. The response provided by the Borough shall consist of:
- (1) Approval for access to the public records;
 - (2) Review of the request by the designated employee; or
 - (3) Denial of access to the public record requested.
- I. 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 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.
- J. Fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records. The Open Records Officer shall also have the discretion to waive fees.
- K. In the event that the estimated cost of fulfilling a request submitted is expected to exceed \$100, the designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Borough resources.

L. Review of request.

- (1) 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 30 days thereof, or 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 requester has failed to comply with the Borough's policy and procedure requirements; or
 - (f) The requester refuses to pay the applicable fees.
 - (g) The extent or nature of the request precludes a response within the required time period.
- (2) Upon a determination that one of the factors listed above applies, the Borough shall send written notice to the requester within five 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 that the 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 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 agency has not provided a response by that date.

M. If access to the record requested is denied, the notice provided by the Borough shall be in writing as indicated on a form attached hereto entitled "Denial of Request to Review and/or Duplicate Seven Valleys Borough Records."³

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

3. Editor's Note: Said form is on file at the Borough offices.

- O. Within 30 days of the mailing date of the final determination of the Appeals Officer, the requester or Borough may file a petition for review or such other document as required by appropriate local rule of the Court of Common Pleas of York County. A petition for review under this section shall stay the release of documents until a decision is issued.
- P. This policy shall be available for review at the Seven Valleys Borough Office during regular business hours.

§ 30-3. Severability.

Should any section, subsection, sentence, clause or phrase of this article be declared invalid by a court of competent jurisdiction, such decision shall not effect the validity of the article in its entirety or any part thereof other than that declared to be invalid.