

**Mt. Lebanon, PA
Resolution No. R-10-08**

**A Resolution of Mt. Lebanon, PA Adopting The Municipal
Policy Regarding Access to Public Records.**

WHEREAS, the Governor signed the new Right-To-Know Law, Act 3 of 2008, on February 14, 2008, amending the process by which citizens access public records; and

WHEREAS, Act 3 of 2008 fully takes effect on January 1, 2009; and

WHEREAS, Act 3 of 2008 requires municipalities to establish a written policy regarding access to public records; and

WHEREAS, the Commission desires to adopt the attached Municipal Policy Regarding Access to Public Records in compliance with state law;

NOW, THEREFORE, BE IT RESOLVED that the Commission hereby adopts the Municipal Policy Regarding Access to Public Records in the form attached hereto as Exhibit A. This policy may be amended from time to time by Resolution.

Adopted this 24th day of November, 2008.

ATTEST:

MT. LEBANON, PA



Manager/Secretary



President of the Commission

MUNICIPALITY OF MT. LEBANON
POLICY REGARDING ACCESS TO PUBLIC RECORDS

Purpose

The purpose of this policy is to insure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. § 66.1 et seq., as amended, to provide access to the public records of the Municipality, to preserve the integrity of the Municipality's records, and to minimize the financial impact to the residents of the Municipality regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Policy

- A. It is the policy of the Municipality 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 Municipality. The Municipality designates the Municipal Manager as the Right-To-Know Officer ("RTK Officer"). The RTK Officer has four specific tasks required under the Pennsylvania Right-to-Know Law:
1. The RTK Officer receives the requests submitted to the Municipality. When the request is received by the RTK Officer, he must (i) note the date of receipt on the written request; (ii) compute the day on which the 5-day period will expire and make a notation of that date on the written request; and (iii) maintain an electronic or paper copy of the request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request must be maintained by the RTK Officer for thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied;
 2. The RTK Officer may direct the requests to other appropriate persons within the Municipality or to appropriate persons in another agency.
 3. The RTK Officer tracks the Municipality's progress in responding to the requests.
 4. The RTK Officer issues interim and final responses under the Right-To-Know Law.
- B. All requests for public records of the Municipality under this policy shall be specific in identifying and describing each public record requested. In no case shall the Municipality 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 Municipality does not currently compile, maintain, format or organize the public record. If the requester desires to pursue the relief and remedies provided for in the Right-To-Know Law, then the request for public records must be submitted in

writing and on a form provided by the Municipality as attached hereto, entitled "Public Record Review/Duplication Request" and include the name and address to which the RTK Officer should address his response.

- C. The RTK Officer shall make a good faith effort to determine whether each record requested is a public record.
- D. The RTK Officer shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Municipality does not respond within five (5) business days of receipt thereof, the request is deemed denied.
- E. The response provided by the RTK Officer shall consist of (1) approval for access to the public record; (2) review of the request by RTK Officer; or (3) denial of access to the public record requested.
- F. If access to a public record requested is approved, the public record shall be available for access during the regular business hours of the Municipality. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the Municipality's public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are reviewed and examined.
- G. Fees:
 - (1) Duplication: Fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication of public records shall be as established by the Office of Open Records.
 - (2) Certified copies: 20 cents per page
 - (3) Postage: Actual cost to the Municipality of mailing the public record.

The Municipality may, in its discretion, waive fees.

- H. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the RTK Officer shall obtain 100% of the expected cost in advance of fulfilling the request to avoid the unwarranted expense of municipal resources.
- I. If the request is being reviewed, the notice provided by the RTK Officer 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 the review, and an estimate of applicable fees when the record becomes available. If the RTK Officer does

not respond within thirty (30) days thereof, the request is deemed denied. Review of the request is limited to situations where:

- (1) 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;
- (2) The record requires retrieval from a remote location;
- (3) A timely response cannot be accomplished due to staffing limitations;
- (4) A legal review is necessary to determine whether the record requested is a public record;
- (5) The requester has failed to comply with the Municipality's policy and procedure requirements;
- (6) The requester refuses to pay the applicable fees; or
- (7) The extent and nature of the request precludes a response within the required time period.

J. If access to the record requested is denied, the notice provided by the RTK Officer shall be in writing and shall include:

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

K. If the request is denied or deemed denied, the requester may file an appeal with the Office of Open Records within fifteen (15) business days of the RTK Officer's response or within fifteen (15) business days of a deemed denial. The Office of Open Records was created in February, 2008 to help implement and enforce the Right-To-Know Law. The appeal must state the grounds on which the

requester asserts that the record is a public record, and must address any grounds stated by the RTK Officer for delaying or denying the request. The Office of Open Records will assign an appeals officer to review the denial.

- L. In the case of a request for law enforcement records that is denied by the RTK Officer, the requester may file an appeal with the District Attorney of Allegheny County. The appeals officer designated by the District Attorney of Allegheny County shall determine if the record requested is a criminal investigative record.
- M. This policy shall be posted conspicuously at the Municipal Building on a public bulletin board.
- N. This policy shall take effect on January 1, 2009.