

**BOROUGH OF BROWNSVILLE  
FAYETTE COUNTY, PENNSYLVANIA**

**RESOLUTION NO. R-01-2024**

**A RESOLUTION OF THE BOROUGH OF BROWNSVILLE, FAYETTE COUNTY, COMMONWEALTH OF PENNSYLVANIA, ADOPTING A POLICY FOR ADMINISTERING REVIEW AND RESPONSES TO REQUESTS FOR PUBLIC RECORDS PURSUANT TO ACT 3 OF 2008, 65 P.S. SEC. 67.101, ET. SEQ.**

**WHEREAS**, Act 3 of 2008 (65 P.S. § 67.101), known as the Right-to-Know Law (RTKL) became effective January 1, 2009; and

**WHEREAS**, pursuant to 65 P.S. § 67.102 of RTKL, the Borough of Brownsville is a local agency subject to the RTKL; and

**WHEREAS**, the Borough of Brownsville recognizes that, in order to have transparency in its actions, it is important that public records are readily open and available to the public; and

**WHEREAS**, the Borough of Brownsville desires to establish a policy to provide access to and procure copies of public records, with certain exceptions, as provided by the RTKL; and

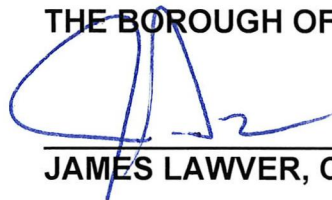
**WHEREAS**, the Borough of Brownsville further recognizes that the RTKL provides that certain records are confidential and are not subject to disclosure; and

**WHEREAS**, the Borough of Brownsville hereby declares its intent to comply with the RTKL and to establish a Policy, as attached, for the access to public records kept or maintained by the Borough in accordance with the RTKL; and

**NOW, THEREFORE**, be it resolved by the Council of the Borough of Brownsville, Fayette County, Commonwealth of Pennsylvania that the attached Right to Know Law Policy is hereby adopted as of the date of this Resolution.

**DULY ADOPTED AND APPROVED** this 10<sup>th</sup> day of April 2024.

**THE BOROUGH OF BROWNSVILLE**



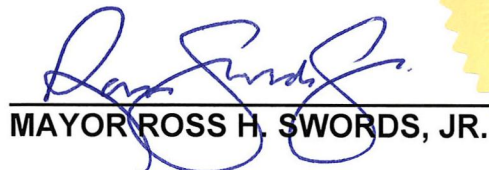
**JAMES LAWVER, COUNCIL PRESIDENT**

**ATTEST:**



**MELISSA S. O'BRIEN  
SECRETARY/ TREASURER**

**EXAMINED AND APPROVED** by me this 10<sup>th</sup> day of April 2024.



**MAYOR ROSS H. SWORDS, JR.**



# Borough of Brownsville Right to Know Law Policy

(Adopted April 10, 2024 pursuant to 65 P.S. § 67.504(a))  
Effective Date: April 10, 2024

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## 1. Authority

The Borough of Brownsville ("Agency") adopts this policy pursuant to Section 504(a) of the Right-to-Know Law, 65 P.S. §§ 67.101-67.3104 ("RTKL"). The Agency will make this policy available to the public at its administrative office(s) and on its public website along with the RTKL Uniform Request Form. See 65 P.S. § 67.504(b) (relating to agency posting requirements under the RTKL).

## 2. Definitions

All of the definitions set forth in the RTKL are incorporated into this policy by reference. See 65 P.S. § 67.102.

*AORO.* The Agency Open Records Officer designated by the Agency pursuant to Section IV of this policy.

*Business day.* The regular business hours of the Agency are typically Monday through Friday from 8 am to 4 pm. Business days exclude Saturday and Sunday and any weekday on which the Agency is closed for business.

## 3. Agency Website

The Agency maintains a public website at [www.BrownsvilleBorough.com](http://www.BrownsvilleBorough.com). A number of records most commonly requested from the Agency are available on the website. The following information is also posted on the Agency's website: AORO contact information; contact information for the OOR and any another applicable appeals officer; a form which may be used to file a RTKL request; and a copy of this policy. See 65 P.S. § 67.504(b) (relating to agency posting requirements under the RTKL).

## 4. Submitting a RTKL Request to the Agency

A. *Open Records Officer.* The Agency has designated an AORO. The contact information for the AORO is:

Melissa S. O'Brien, AORO  
200 Second Street  
Brownsville, PA 15417  
Phone: 724-785-5761  
Email: [BrownsvilleBorough@breezeline.net](mailto:BrownsvilleBorough@breezeline.net)

The contact information for the AORO is listed above and posted on the Agency website.

- B. *Request.* Requests must be submitted in writing using the RTKL Uniform Request Form available on the Agency website and must be addressed to the AORO. If a requester chooses not to use the RTKL Uniform Request Form, the request will be considered an informal request, not subject to the RTKL. This means that the Agency is under no obligation to respond pursuant to the RTKL, and that the requester cannot pursue the relief and remedies provided for in the RTKL. To allow the Agency to locate requested records and determine whether those records are public, requests for records should be specific and concise and clearly identify, as precisely as possible, the records sought. See 65 P.S. § 67.703. Requesters should clearly indicate the preferred method of access – paper copies, electronic copies or by inspection. A requester should retain a copy of the request, as a copy of the request is necessary should a requester appeal the Agency response.
- C. *Receipt of the request.* For the purpose of calculating the response deadline, the Agency is deemed to have received the request on the business day that the AORO receives the request. See 65 P.S. § 67.901. Any request that is received by the Agency after the close of regular business hours shall be deemed to be received on the next business day. If the request is received by an Agency employee other than the AORO, the request will be forwarded to AORO as soon as practical.
- D. *Verbal requests.* The Agency will respond to verbal requests for records at its discretion. Requesters submitting verbal requests for records should be aware that they may not pursue the remedies available to a requester under the RTKL, and that the Agency is under no obligation to respond pursuant to the RTKL.
- E. *Anonymous requests.* **The Agency will not respond to anonymous requests for records.**
- F. *Response period generally.* The Agency has 5 business days to respond to a request for records under the RTKL. If an Agency does not respond, the request is considered “deemed denied,” and a requester’s appeal rights commence.

## 5. Agency Response

- A. *Extension of time for response.* The Agency is permitted to take an additional thirty (30) calendar days beyond the initial five (5) business days to respond to any request for the reasons set forth in Section 902 of the RTKL. See 65 P.S. § 67.902. If the Agency invokes this extension, the Agency will inform the requester in writing, in accordance with the requirements set forth in Section 902(b)(2) of the RTKL, within five (5) business days of the request.
- B. *Requester’s agreement to extend the response period.* The requester’s agreement to an extension is not necessary unless a response will be provided

later than after thirty (30) calendar days following the five (5) business days after receipt. In that case, the requester must agree in writing to the extension.

- C. *Trade secrets.* If a request involves records provided to the Agency by a third party and the third party previously provided the Agency with a written statement that the record contains a trade secret or confidential proprietary information, the Agency shall provide notice of the request to the third party and shall further proceed pursuant to 65 P.S. § 67.707(b).
- D. *Final response.* The Agency may grant a request, partially grant and partially deny a request, or deny a request in its entirety. The final response of the Agency will be in writing. Should the Agency fail to issue a response within the applicable response period, the request is deemed denied. See 65 P.S. § 67.901.
- 1) *Granting access to records.* The Agency may grant a request for records by issuing a response: (1) granting access to inspect and duplicate Agency records during the Agency's regular business hours; (2) sending copies of the records to the requester; or (3) by notifying the requester that the records are available on the Agency website or other publicly accessible electronic means. See 65 P.S. §§ 67.701(a), 704.
  - 2) *Denying or partially denying access to records.* Should the Agency deny or partially deny a request for records through redaction or otherwise, the Agency will inform the requester of the denial or partial denial in writing. The response will describe the requested records, inform the requester that the Agency does not possess the responsive records or, if the records are exempt from public access, provide a citation to the relevant legal basis for withholding the requested records. See 65 P.S. § 67.903. Additionally, the response will provide the name, signature, title, business address and telephone number of the Open Records Officer who denied the request, as well as the date of the response and the procedure to appeal the denial. See 65 P.S. § 67.903.
- E. *Fees.* The Agency will charge fees consistent with the RTKL Fee Structure, available at <http://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>.

## 6. RTKL Appeals

- A. *Generally.* To challenge the denial, partial denial, or deemed denial of a request for Agency records, an appeal may be filed using the OOR appeal form, available at <http://www.openrecords.pa.gov/Appeals/AppealForm.cfm>, or by contacting the OOR at the following address:

Office of Open Records  
Commonwealth of Pennsylvania  
333 Market St., 16th Floor  
Harrisburg, PA 17101-2234  
[openrecords@pa.gov](mailto:openrecords@pa.gov)

***Criminal investigative records. To challenge the denial of a request or portion of a request on the basis that records were withheld because they are related to criminal investigative records, an appeal should be filed by contacting:***

Fayette County District Attorney's Office  
Attn: Krystal Moore, Office Manager  
61 East Main Street  
Uniontown, PA 15401  
[kvail@fayettepa.org](mailto:kvail@fayettepa.org)

- B. *Requirements of an appeal.* All appeals must be filed within 15 business days of the mailing date of the Agency's denial or partial denial, or 15 business days of the Agency's deemed denial of the request. All appeals must be in writing; must state the grounds upon which the requester asserts that the requested records are public records; must address any grounds stated by the Agency for denying the request; and must include a copy of the request and the Agency's response, if any. See 65 P.S. § 67.1101(a)(1).

## **7. Agency Notification of Third Parties on Appeal**

*Agency must notify third parties.* If records affect a legal or security interest of an employee of the agency; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, the Agency must notify such parties of the appeal immediately and provide proof of that notice to the OOR within 7 business days from the date of the OOR's Official Notice of Appeal. Such notice must be made by (1) providing a copy of all documents included with the appeal to the OOR; and (2) advising that interested persons may request to participate in the appeal. See 65 P.S. § 67.1101(c).

## **8. Mediation**

The RTKL requires the OOR to establish an informal mediation process to resolve disputes under the RTKL. 65 P.S. § 67.1310(a)(6). This is a voluntary process to help parties reach a mutually agreeable settlement on records disputes before the OOR. Mediation, a facilitated conversation between the parties that can serve as a fair and efficient tool to resolve conflict, can save time and expense. When appropriate, the Agency is open to resolving RTKL disputes through the OOR's mediation process.

## **9. Record Retention**

Notwithstanding any other existing record retention policy, once a RTKL request is received, the Agency shall maintain, preserve, retain, protect, and not destroy any and all records, both electronic and hard copy, that are potentially responsive to the request until such time as the request is fulfilled and all associated appeals are resolved.

## **10. Additional Information about the RTKL**

Additional information about the RTKL, the request process, and the appeal process is available on the OOR website at <https://www.openrecords.pa.gov>.

When responding to a request, the Borough is not required to create a record that does not presently exist. Nor is the Borough required to compile, maintain, format, or organize a record in a manner in which the Borough does not currently maintain, format, or organize the record.



# pennsylvania

OFFICE OF OPEN RECORDS

## Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied.

**SUBMITTED TO AGENCY NAME:** \_\_\_\_\_ (Attn: AORO)

Date of Request: \_\_\_\_\_ Submitted via:  Email  U.S. Mail  Fax  In Person

**PERSON MAKING REQUEST:**

Name: \_\_\_\_\_ Company (if applicable): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Email: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

How do you prefer to be contacted if the agency has questions?  Telephone  Email  U.S. Mail

**RECORDS REQUESTED:** *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law. Use additional pages if necessary.*

- DO YOU WANT COPIES?**  Yes, printed copies (default if none are checked)  
 Yes, electronic copies preferred if available  
 No, in-person inspection of records preferred (may request copies later)

Do you want certified copies?  Yes (may be subject to additional costs)  No  
RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

**Please notify me if fees associated with this request will be more than**  \$100 (or)  \$\_\_\_\_\_.

**ITEMS BELOW THIS LINE FOR AGENCY USE ONLY**

Tracking: \_\_\_\_\_ Date Received: \_\_\_\_\_ Response Due (5 bus. days): \_\_\_\_\_

30-Day Ext.?  Yes  No (If Yes, Final Due Date: \_\_\_\_\_) Actual Response Date: \_\_\_\_\_

Request was:  Granted  Partially Granted & Denied  Denied Cost to Requester: \$\_\_\_\_\_

Appropriate third parties notified and given an opportunity to object to the release of requested records.

*NOTE: In most cases, a completed RTKL request form is a public record.  
More information about the RTKL is available at <https://www.openrecords.pa.gov>*

Form updated Feb. 3, 2020