

BILL NO. 58-2012

AN ORDINANCE

AN ORDINANCE OF THE CITY OF READING, BERKS COUNTY, PENNSYLVANIA, AMENDING CODIFIED ORDINANCES, CHAPTER 1 ADMINISTRATION AND GOVERNMENT §§ 1-1001, 1-1004, 1-1005, 1-1006, AND 1-1007 OF THE CITY OF READING POLICY FOR ACCESS TO PUBLIC RECORDS IN ACCORDANCE WITH THE PENNSYLVANIA RIGHT-TO-KNOW LAW

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City of Reading Policy for Access to Public Records set forth in Chapter 1 Part 10 of the Codified Ordinances shall be amended as follows:

§1-1001. Purpose.

1. The purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. §66.1 *et seq.*, as amended, to provide prompt and efficient access to public records of the City of Reading, to preserve the integrity of records, and to minimize the financial impact to the residents of the City of Reading regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records, and to protect the privacy rights of individuals who submit sensitive information to the City that is considered non-public, confidential, or privileged under the Right-to-Know Law.

2. It is the policy of the City of Reading 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 City of Reading. The City of Reading designates the ~~Managing Director~~ Law Department as responsible for assuring compliance with the Pennsylvania Right to- Know Law, in accordance with the following guidelines.

§1-1004. Format to Request.

All requests for public records of the City of Reading under this policy shall be specific in identifying and describing each public record requested. In no case shall the City of Reading 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 City of Reading does not currently compile, maintain, format or organize the public record. Requests for public records shall be submitted in writing and shall include the name and address to which the Law Department should address its response. Requests may be made by mail, in person, by email, or by facsimile and on a form provided by the City of Reading, as attached hereto entitled "Standard Right to Know Request Form," which is available upon request at the City of Reading Law Department, Rm 2-54 City Hall, or on Readingpa.gov.

§1-1005. Procedure.

1. All requests for access to public records of the City of Reading shall be directed to the ~~Managing Director of the City of Reading. The Managing Director's office shall be located in City Hall and made accessible to the public~~ the City of Reading Law Department, Room 2-54

City Hall, between the business hours of 8 AM to 4 PM Monday through Friday, (except on holidays) or at solicitor@readingpa.org. Requests will be addressed within five days of receipt.

2. Upon receiving a request for a public record, the ~~Managing Director~~ Law Department shall do all of the following:

- A. Note the date of receipt on the written request.
- B. Compute the day on which the 5-day period will expire and make a notation of the date on the written request.
- C. Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.
- D. Create a file for the retention of the original request, a copy of the response, a record of written communications with the requestor and a copy of other communications.

3. The ~~Managing Director~~ Law Department shall respond to the requester within 5 business days from the date of receipt of the written request. If the City of Reading does not respond within 5 business days of receipt thereof, the request is deemed denied.

4. The response provided by the City of Reading shall consist of (A) approval for access to the public record; (B) review of the request by the ~~Managing Director~~ Law Department; or (C) denial of access to the record requested.

5. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the City of Reading. The ~~Managing Director~~ Law Department, or his its designee, shall cooperate fully with the requester, while also taking reasonable measures to protect the City of Reading's 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.

§1-1006. Review of Request.

1. If the request ~~is being reviewed~~ requires an extension of time for the City to produce the records or provide a written response granting or denying the request, the notice provided by the City of Reading shall be in writing and include the reason for the review, the expected response date, and an estimate of applicable fees owed when the record becomes available, which shall be within 30 days ~~notice of review of the original deadline imposed under Chapter 9 of the Right-to-Know Law 65 P.S. §§67.901-905~~. If the City of Reading does not respond within 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 subject to access.

- E. The requester has not complied with the City of Reading's policy and procedure requirements.
- 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. If access to the record requested is denied, the notice provided by the City of Reading ~~as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate Records"~~ shall be in writing and shall outline each reason upon which the decision to deny access to the records is based.

§1-1007. Denial of Request.

1. A request may be denied if:

A. ~~A request may be denied if~~ The requester has made repeated requests for the same record and the repeated requests have placed an unreasonable burden on the agency. A denial for this purpose shall not restrict the ability to request a different record.

B. ~~A request may be denied when~~ Timely access is not possible due to fire, flood, or other disaster.

C. ~~A request may be denied if~~ Historical, ancient, or rare documents, records, archives and manuscripts when access may, in the professional judgment of the curator or custodian of records, cause physical damage or irreparable harm to the record.

D. The record or information requested is exempt from disclosure under any of the exceptions listed in Section 708(b) of the Right-to-Know Law. 65 P.S. § 67.708 (b).

E. The information requested information is protected by the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth.

F. The requested records or information is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.

G. The request is not specific enough for the City to determine what record(s) is sought.

H. A request may be denied if the request requires the City to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the City does not currently compile, maintain, format or organize the record.

4. ~~2.~~ If the request is denied or deemed denied, an appeal shall be filed within 15 business days of the mailing date of the City's response or within 15 business days of a deemed denial with the Pennsylvania Office of Open Records in accordance with the Pennsylvania Right to Know Law, Act 3 of 2008, effective January 1, 2009, Chapter 11, 65 P.S. §67.110.

Exception: Appeals of denials or deemed denials of requests for Law Enforcement

Records which per the Right to Know Act an appeal shall be filed the Berks County District Attorney's Office in accordance with said Act, Chapter 11, 65 P.S. §67.1101 and Chapter 5, 65 P.S. §67.503.

5. 3. This policy shall be posted conspicuously at the Managing Director's office Law Department, Room 2-54 in City Hall in addition to the contact information for the State Office of Open Records.

SECTION 2. All other provisions of the City of Reading's Policy regarding Request for Access to Policy Records as Codified as Chapter 1 Administration and Government Part 10 not amended hereby shall remain in full force and effect.

SECTION 3: If any section, subsection, sentence or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 4: This Ordinance shall become effective in ten (10) days, in accordance with Charter Section 219.

Enacted May 29, 2012

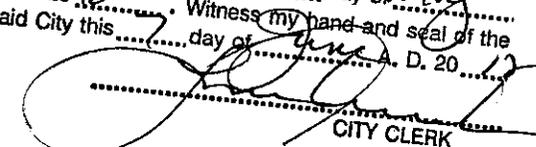


President of Council

Attest



City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance Passed by the Council of the City of Reading, on the 29 day of May, A. D. 20 12. Witness my hand and seal of the said City this 29 day of May, A. D. 20 12.


CITY CLERK

(LAW)

Taken to the Mayor's Office by  on 5/30/12
Received by the Mayor's Office by  on 5/30/12
Approved by the Mayor  on 5/30/12
Vetoed by the Mayor _____ on _____