

ORDINANCE NUMBER 4 OF 2008

AN ORDINANCE AMENDING THROOP BOROUGH'S OPEN RECORDS POLICY

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Throop, Pennsylvania, as follows:

Section 1: *The Open Records Policy of the Borough of Throop is hereby amended to state in entirety as follows:*

Purpose

The purpose of this policy is to assure compliance with Act 3 of 2008, The Pennsylvania Right-to-Know Law, as amended; to provide access to public records of Throop Borough; to preserve the integrity of Throop Borough's records; and to minimize the financial impact to the residents of the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Designated Open Records Officer

It is the policy of the Borough 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 Borough. Throop Borough designates the Secretary Borough Manager 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 certain employee(s) to process public record requests.*
- B. *The Borough Secretary is responsible for minimizing, where possible, the financial impact to the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.*
- C. *All requests for public records of the Borough under this policy shall be specific in identifying and describing each public record requested. In no case shall the Borough be required to create 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; requestor's name, address and telephone number; certification of United States residency; signature of requestor; and if duplication is requested, appropriate payment.*

D. *The designated employee shall make a good faith effort to determine whether each record requested is a public record.*

E. *The Borough shall facilitate a reasonable response to a request for Throop Borough's public records. In no case is the Borough 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 requirements of the Pennsylvania Right-to-Know Law.*

F. *The designated employee shall respond to the requester with five (5) business days from the date of receipt of the written request. If the Borough does not respond with five (5) business days of receipt thereof, the request is deemed denied.*

G. *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 record requested.*

H. *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.*

I. *Fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records. The Borough may at its discretion waive fees.*

J. *In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Borough resources.*

K. *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 thirty (30) days of the notice of review. If the Borough does not respond within thirty (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 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.*

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, the reason for the review, a reasonable date that a 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.

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

M. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth's Office of Open Records within fifteen (15) business days of the mailing date of the Borough's notice of denial, or within fifteen (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

N. Within 30 days of the mailing date of the final Lackawanna determination of the appeals officer, the requester or Borough may file a petition for review or other document as required by rule of court with the court of common pleas for Lackawanna County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review under this section shall stay the release of documents until a decision is issued.

O. This policy shall be available for review at the Borough office.

Section 2. Repealer. *That any Ordinance, or part of Ordinance, conflicting with this Ordinance be and the same is hereby repealed insofar as the same affects this*

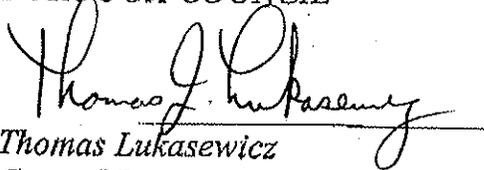
Ordinance. The Codified Ordinance of the Borough of Throop, "Open Records Policy" is specifically repealed in its entirety.

Section 3. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Throop Borough Council that this Ordinance would have been adopted had such included herein.

Section 4. Effective Date. This Ordinance shall become effective
JANUARY 1, 2009

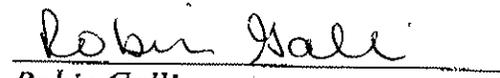
ENACTED AND ORDAINED this 30TH day of DECEMBER, 2008.

BOROUGH COUNCIL



Thomas Lukasewicz
Council President


Stanley Lukowski
Mayor


Robin Galli
Secretary



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OFFICE OF OPEN RECORDS

Fee Structure

Section 1307 of the Right-To-Know law requires the Office of Open Records to establish a fee structure for Commonwealth Agencies and Local Agencies. To promote uniformity among all agencies, the Office of Open Records encourages Judicial and Legislative agencies, which can set their own fees, to adopt the following fee structure. All agencies are advised that duplication fees can be waived.

The Office of Open Records establishes the following fee structure in accordance with the law.

Fee Structure

Record Type	Fee
Copies: <i>(A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page)</i>	Between .10 per page to a maximum .25 per page.
Certification of a Record:	\$1 per record, not per page. Please note that certification fees do not include notarization fees.
Specialized documents: For example, but not limited to, blue prints, color copies, non-standard sized documents	Actual Cost
Facsimile/Microfiche/Other Media:	Actual Cost
Redaction Fee:	No Redaction Fee May be Imposed

Conversion to Paper:

If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)).

Postage Fees:

Fees for Postage May Not Exceed the Actual Cost of Mailing

Please Also Be Advised:

- **Statutory Fees:** If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page under 42 P.S. § 21051. Police departments have the authority to charge up to \$15 per report for providing a copy of a vehicle accident report. 75 Pa.C.S. §3751 (b)(2). Philadelphia police may charge up to \$25 per copy. *Id.* at (b)(3). State police are authorized to charge "\$5 for each copy of the Pennsylvania State Police full report of investigation." 75 Pa.C.S. §1956(b).
- **Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the Agency may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.
- **Enhanced Electronic Access:** If an agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the agency may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by this Act. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-

transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. **The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency.** Please submit any request to the Office of Open Records, 400 North Street, Harrisburg, PA. 17120.

- **Fee Limitations:** Except as otherwise provided by statute, the law states that **no other fees may be imposed** unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record, legislative record or financial record subject to access in accordance with this Act. No fee may be charged for searching for or retrieval of documents. An agency may not charge staff time or salary for complying with a RTK request.

- **Prepayment:** Prior to granting a request for access in accordance with this Act, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.
 - Once the request is fulfilled and prepared for release, the Office of Open Records recommends that the agency obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the agency provides the records and the requester fails to submit payment.



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OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR : _____

STREET ADDRESS : _____

CITY/STATE/COUNTY (Required): _____

TELEPHONE (Optional): _____

RECORDS REQUESTED:

**Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

**Throop Borough
Municipal Building
436 Sanderson Street
Throop, PA 18512-1224
Phone (570) 489-8311
Fax (570) 383-7122
Email - throopboro@comcast.net**

RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR : _____

STREET ADDRESS : _____

CITY/STATE/COUNTY (Required): _____

TELEPHONE (Optional): _____

RECORDS REQUESTED:

**Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.)
Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*



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OFFICE OF OPEN RECORDS

Right-To-Know Response Form

Re: Sample Granted Request

Date

Citizen Name

Address

Telephone Number

Dear *[Citizen]*,

Thank you for writing to *[Name of Public Body or Agency]* with your request for information pursuant to the Pennsylvania Right- To-Know law.

On *[Insert date received by agency]*, you requested documents that *[insert description of information requested, or restate their request]*. Your request is granted and the requested responsive documents are enclosed.

Respectfully,

RIGHT-TO-KNOW OFFICER NAME *[information required to be typed]*

TITLE *[information required to be typed]*

BUSINESS ADDRESS *[information required to be typed]*

BUSINESS TELEPHONE *[information required to be typed]*

SIGNATURE

**Throop Borough
Municipal Building
436 Sanderson Street
Throop, PA 18512-1224
Phone (570) 489-8311
Fax (570) 383-7122
Email - throopboro@comcast.net**

Right-To-Know Response Form

Re: Granted Request

Date _____

Name _____
Address _____
Telephone Number _____

Dear _____,

Thank you for writing to Throop Borough with your request for information pursuant to the Pennsylvania Right-To-Know law.

On _____ you requested documents that _____
_____ Your request is granted and the requested responsive documents are enclosed.

Respectfully,

Robin Galli
Borough Secretary,
Right-To-Know Officer
436 Sanderson Street
Throop, PA 18512
(570)489-8311



pennsylvania

OFFICE OF OPEN RECORDS

Right-To-Know Response Form

Re: Sample Granted in Part/Denied in Part

Date
Citizen Name
Address
Telephone Number

Dear **[Citizen]**,

Thank you for writing to **[Public Body]** with your request for information pursuant to the Pennsylvania Right-To-Know law.

On **[date received by agency]**, you requested **[description of information requested, or restate their request]**. Your request is granted in part and denied in part as follows. Your documents are enclosed.

However, the **[Agency]** has withheld information that is exempt from disclosure by law. We redacted **[Describe redacted information: Examples....social security number, academic transcripts, medical information, or other exemptions]** as outlined in Section 708(b).

This information is exempt from disclosure under **[CITE applicable section of the law. If precluded from release by other state or federal law, rule or regulation, you must cite to that legal authority.]**

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

[For Criminal Records] to the District Attorney of the County, Name, Address and Telephone Number. **[For Legislative Records]**: Contact information

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response, as outlined in Section 1101. If you have further questions, please call **[Right-To-Know Officer]**. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

RIGHT-TO-KNOW OFFICER NAME **[information required to be typed]**
TITLE **[information required to be typed]**
BUSINESS ADDRESS **[information required to be typed]**
BUSINESS TELEPHONE **[information required to be typed]**

SIGNATURE

**Throop Borough
Municipal Building
436 Sanderson Street
Throop, PA 18512-1224
Phone (570) 489-8311
Fax (570) 383-7122
Email - throopboro@comcast.net**

Re: Granted in Part/Denied in Part

Date _____
Name _____
Address _____
Telephone Number _____

Dear _____,

Thank you for writing to Throop Borough with your request for information pursuant to the Pennsylvania Right-To-Know law.

On this date _____ Throop Borough received your requested _____.
Your request is granted in part and denied in part as follows. Your documents are enclosed.

However, Throop Borough has withheld information that is exempt from disclosure by law. We redacted _____ as outlined in Section 708(b).

This information is exempt from disclosure under _____

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

For Criminal Records appeal to District Attorney Andrew Jarbola, 200 N. Washington Ave., Scranton, PA 18503, (570)963-6717. For Legislative Records: State Representative Kevin Murphy, Jay's Commons Building, 409 N. Main Street, Scranton, PA 18508

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response, as outlined in Section 1101. If you have further questions, please call Robin Galli, (570)489-8311. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

Robin Galli
Borough Secretary,
Right-To-Know Officer
436 Sanderson Street
Throop, PA 18512
(570)489-8311



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OFFICE OF OPEN RECORDS

Right-To-Know Response Form

Re: Sample Denial

Date

Citizen Name

Address

Telephone Number

Dear [*Citizen*],

Thank you for writing to [*Public Body*] with your request for information pursuant to the Pennsylvania Right-To-Know law.

On [*Date received by agency*], you requested [*Describe information requested, or restate their request*]. Your request is denied for the following reasons, as permitted by Section 706 of the Act.

The [*Agency*] has denied your request because [*describe specific type of information, such as medical records, academic transcripts or other exemption items*] is exempt from disclosure. [*Must cite applicable section of the RTK law. If precluded from release by some other state or federal law, rule or regulation, you must cite that legal authority.*]

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

[*For Criminal Records*] appeal to the District Attorney Name, Address and Telephone Number.

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response. Section 1101. If you have further questions, please call [*Right-To-Know Officer*]. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

RIGHT-TO-KNOW OFFICER NAME [*information required to be typed*]

TITLE [*information required to be typed*]

BUSINESS ADDRESS [*information required to be typed*]

BUSINESS TELEPHONE [*information required to be typed*]

SIGNATURE

**Throop Borough
Municipal Building
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Throop, PA 18512-1224
Phone (570) 489-8311
Fax (570) 383-7122
Email - throopboro@comcast.net**

Right-To-Know Response Form

Re: Denial

Date _____

Name _____

Address _____

Telephone Number _____

Dear _____,

Thank you for writing to Throop Borough with your request for information pursuant to the Pennsylvania Right-To-Know law.

On this date _____, Throop Borough received you requested

_____.
Your request is denied for the following reasons, as permitted by Section 706 of the Act.

Throop Borough has denied your request because _____
_____ is exempt from disclosure.

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

For Criminal Records appeal to District Attorney Andrew Jarbola, 200 N. Washington Ave., Scranton, PA 18503, (570)963-6717.

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response. Section 1101. If you have further questions, please call Robin Galli (570)489-8311. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

Robin Galli
Borough Secretary
Right-to-Know Officer
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