



UPPER MACUNGIE TOWNSHIP

Open Records Policy

Effective: January 4, 2016

Updated: April 19, 2021

Upper Macungie Township has adopted a policy to comply with the Commonwealth's Act 3 of 2008, 65 P.S. §§ 67.101 et seq., commonly known as the "Right to Know Law." With certain exceptions, members of the public have the right to inspect and/or copy such records upon request.

Definitions

Right to Know Law (or Open Records Law). Act 3 of 2008, 65 P.S. §§ 67.101 et seq., commonly known as the Right to Know Law ("Law").

Business Day. Monday through Friday during regular business hours (7:30am - 4:00pm), except those days when the Township is closed. For the purpose of this Open Records Policy, Township Departments are closed when any of the following apply: (a) the Township operates on an "essential services only" basis; (b) the Township is closed for four or more hours during regular business hours; or (c) the Township closes for any portion of regular business hours on an emergency basis.

Public Record. Any document that satisfies the general definition of "public record" set forth in the Law and does not fall within any of the exceptions set forth therein, as the definition and exceptions are amended from time to time and as the definition and exceptions are interpreted by state, federal and/or local courts.

Open Records Officer. Any official or employee of Upper Macungie Township who is officially assigned responsibility for receiving, tracking and responding to requests for information under the Right to Know Law. Upper Macungie Township may designate a Deputy or Secondary Open Records Officer to act in the absence of an Open Records Officer.

Requester. A person who requests a record under the Right to Know Law.

State Office of Open Records. The State Office, under the Department of Community and Economic Development, as explained in §1310 of the Right to Know Law. The Office of Open Records shall be responsible for many duties, which include (but are not limited to): issuing advisory opinions, training agencies and public employees, assigning appeals officers to review decisions and conducting a biannual review of fees allowed under the Law.

Open Records Officer

All open records requests should be submitted directly to the Upper Macungie Township Open Records Officer; however, requests for Police Incident Reports or other police business must be directed to the Open Records Officer for the Upper Macungie Police Department.

The current list of Officers can be found below:

Department

Officer & Contact Information

Upper Macungie Township
Open Records Officer

Kalman Sostarecz, Jr.
Township Secretary
8330 Schantz Road
Breinigsville, PA 18031
Phone: (610) 395-4892, Ext. 116
Fax: (610) 395-9355
openrecords@uppermac.org

Upper Macungie Township Police Department
Open Records Officer

Keri Diehl
Office Manager
37 Grim Road
Breinigsville, PA 18031
Phone: (484) 661-5911
Fax: (610) 841-4922
openrecords@uppermac-pd.org

Upper Macungie Township Police Department
Alternate Open Records Officer

Peter Nickischer
Lieutenant
37 Grim Road
Breinigsville, PA 18031
Phone: (484) 661-5911
Fax: (610) 841-4922
openrecords@uppermac-pd.org

Procedure

The Law requires Upper Macungie Township to act upon each non-anonymous written request when such request is made in person, by mail, by facsimile or by e-mail. The Law does not require that Upper Macungie Township act upon an oral request, and Upper Macungie Township shall refuse to accept oral requests. Furthermore, the Law does not require Upper Macungie Township to act upon an anonymous request, and Upper Macungie Township will refuse to honor an anonymous request.

Pursuant to the Law, the State Office of Open Records has created and published on its website a standard statewide form which will be accepted by Upper Macungie Township for the filing of a request (<https://www.openrecords.pa.gov/Documents/RTKL/RTKRequestForm.pdf>) (Also see Attachment #1). Effective January 4, 2016, Upper Macungie Township will require the standard statewide form be used for the submission of Right to Know requests, and will not consider a request to be a written request pursuant to the Right to Know Law unless the request is submitted on or with the standard statewide form.

Beginning January 4, 2016, Upper Macungie Township will consider any request not submitted on or with the standard statewide form to be an informal request not subject to the Right to Know Law. Upper Macungie Township reserves the right, at its sole discretion, to use the Right to Know Law as guidance in responding to informal requests for records and/or information. If a requester submits a request on or with the standard statewide form after submitting an informal request for the same (or similar) records, Upper Macungie Township will consider the informal request to have been withdrawn. Upper Macungie Township reserves the right, at its sole discretion, to require a written request pursuant to the Right to Know Law before releasing records. A copy of the standard statewide form appears at the end of this policy.

** Important Note: The intent of a Right to Know Request is to request specific documents be provided, it is not meant to simply answer questions such as "what's the speed limit on a certain road?" or "who is performing road work at a certain location?" To make such an inquiry, please phone the Township at 610-395-4892 and your call will be directed accordingly.*

The Law sets forth various specifications for the contents of a written request. To qualify as a written request under the Right to Know Law and the Upper Macungie Open Records Policy, the request must (a) be directed to the appropriate Open Records Officer designated above, (b) be submitted on or with the standard statewide form, and (c) contain, at a minimum, the following information:

- a. name of requester;
- b. address of requester; and
- c. records being sought, identified or described with sufficient specificity to allow Upper Macungie Township to ascertain which records are being requested.

Under the Law, Upper Macungie Township has a duty to make a good faith effort to determine if the record(s) requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request; this time shall not exceed five (5) business days from the date the request is received by the agency's Open Records Officer. The Law provides that either a final or interim response be provided to the requester within five (5) business days from the date of receipt by the agency. If the agency fails to respond within this five (5) day time period, the Open Records Request is deemed denied.

The Law and Upper Macungie's policy contemplates that requesters will receive a response within five (5) business days. The Law, however, does provide Upper Macungie with specific reasons that may be invoked to receive a single extension of time which shall not exceed thirty calendar days. If an extension is invoked and no response is provided to the requester within the thirty (30) day time period, the Open Records Request is deemed denied. Additionally, should Upper Macungie notify the requester it needs more than the maximum thirty (30) day extension, the request is 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.

Upper Macungie Township's final response to a request will do one of the following:

- a. grant the request;
- b. deny the request;
- c. grant the request in part and deny the request in part; or
- d. grant the request and redact part of the information provided pursuant to the Law and/or other applicable federal, state and local law.

Appeals of Denied Requests

If a request for access to a record is denied (in whole or in part) or deemed denied, the requester may file an appeal within fifteen (15) business days of the mailing date of Upper Macungie Township's denial as follows:

Records Other Than Criminal Investigative Records

Appeals of denials related to requests for records other than criminal investigative records must be directed to the Pennsylvania Office of Open Records at the following address: Commonwealth of Pennsylvania, Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2234.

Criminal Investigative Records

Appeals of denials related to requests for criminal investigative records (denials pursuant to Section 708(b)(16) as relating to a criminal investigation) must be directed to the Lehigh County District Attorney's Office within fifteen (15) business days of the mailing date of Upper Macungie Township's denial. Appeals to the Lehigh County District Attorney's Office should be directed to the following address: Lehigh County District Attorney's Office, Lehigh County Courthouse, Room 307, 455 W. Hamilton St., Allentown, PA 18101-1614.

For All Administrative Appeals

Unless the requester agrees otherwise, the Appeals Officer shall make a final determination which shall be mailed to the requester and Upper Macungie Township within thirty (30) days of receipt of the appeal. Should the Appeals Officer fail to issue a ruling within thirty (30) days, the appeal is deemed denied.

Before a final determination is issued, a hearing may be held. The determination by the Appeals Officer shall be a final order. The Appeals Officer shall provide a written explanation of the reasons for the decision to the requester and Upper Macungie Township.

Within thirty (30) days of the mailing date of the final determination of the Appeals Officer, a requester, or Upper Macungie Township may file a petition for review or other document(s) as required by rule of court with the Lehigh County Court of Common Pleas.

Fees and Charges

Fees for duplication of records have been established and posted by the State Office of Open Records. Upper Macungie Township will charge fees consistent with the State Office of Open Records regulations. Upper Macungie Township reserves the right to impose additional fees if it incurs costs for complying with a request, pursuant to the Right to Know Law; such additional fees, when charged, must be reasonable. This includes, but is not limited to, fees for enhanced electronic access and certified copies of documents. (See Attachment #2)

Written Policies and Regulations

Upper Macungie Township and each Open Records Officer shall retain the discretion and authority to adopt any other written policies that are consistent with the Right to Know Law, and these policies, as amended from time to time, that they deem to be necessary or prudent, consistent with the Right to Know Law.

Additional Information

The Commonwealth of Pennsylvania provides additional guidance for citizens on its website which can be found here: <https://www.openrecords.pa.gov/RTKL/CitizensGuide.cfm>



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.

ATTACHMENT #2

Office of Open Records – Official RTKL Fee Schedule

Updated December 22, 2020

Record Type / Delivery Method	Fee
Black & White Copies (first 1,000)	Up to \$0.25 per copy.
Black & White Copies (beyond 1,000)	Up to \$0.25 per copy. ¹
Color Copies	Up to \$0.50 per copy. ²
Specialized Documents ³	Up to actual cost.
Records Delivered via Email	No additional fee may be imposed. ⁴
CD / DVD	Up to actual cost, not to exceed \$1.00 per disc.
Flash Drive	Up to actual cost.
Facsimile	Up to actual cost. ⁵
Other Media	Up to actual cost.
Redaction	No additional fee may be imposed. ⁶
Conversion to Paper	Up to \$0.25 per page. ⁷
Photographing a Record	No additional fee may be imposed. ⁸
Postage	Up to actual cost of USPS first-class postage.
Certification of a Record	Up to \$5.00 per record. ⁹

¹ A “copy” is either a single-sided copy, or one side of a double-sided copy, on 8.5”x11” or 8.5”x14” paper.

² A “copy” is either a single-sided copy, or one side of a double-sided copy, on 8.5”x11” or 8.5”x14” paper. Note that a requester may ask for black and white copies even if the original is in color and color copies are available.

³ Including, but not necessarily limited to, non-standard sized documents and blueprints.

⁴ If a requester asks to receive records which require redactions in electronic format and the agency is unable to securely redact the records by electronic means, an agency may print the records to provide for secure redaction, then scan them in for delivery by email. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁵ If an agency must print records to send them by facsimile, the agency may charge the fees noted above for B&W copies.

⁶ If a requester seeks records requiring redaction and the agency is unable to securely redact the records by electronic means, an agency may copy or print the records to provide for secure redaction. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁷ 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. *See § 1307(d)*.

⁸ This assumes the requester is using his or her own camera, such as a cellphone camera, to photograph the records. *See Muenz v. Township of Reserve, OOR Dkt. AP 2015-1021, 2015 PA O.O.R.D. LEXIS 1176*. If redaction is required prior to the requester being granted access to photograph records and the agency is unable to securely redact the records by electronic means, an agency may copy or print the records to provide for secure redaction. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁹ Under the RTKL, an agency may impose “reasonable fees for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record.” The OOR recommends no more than \$5 per record to certify a public record. Certification fees do not include notarization fees.

Additional Notes

Fees May Be Waived: All fees established herein may be waived at the discretion of the agency.

Medium Requested: A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. *See § 701.*

Other Statutory Fees: If a statute other than the RTKL governs the amount an agency may charge for a certain type of record, the other statute controls. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page (42 P.S. § 21051). Police departments may charge up to \$15 for a copy of a vehicle accident report (75 Pa.C.S. §3751 (b)(2)); the Philadelphia Police Department 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)). Other examples include the History Code, the Municipalities Planning Code, and the Criminal History Record Information Act.

Inspection of Redacted Records: If a requester wishes to inspect, rather than receive copies of, records which contain both public and non-public information, the agency may redact the non-public information. An agency may not charge the requester for the redaction itself. However, an agency may charge (in accordance with the OOR’s Official Fee Schedule) for any copies it must make in order to securely redact the material before allowing the requester to view the records. 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. 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. Such fees 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. **NOTE: Fees for enhanced electronic access must be reasonable and must be pre-approved by the OOR. Please [submit enhanced electronic access fee requests to the OOR](#).**

Fee Limitations: Except as otherwise provided by statute, the RTKL 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 subject to access under the RTKL. 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. No fee may be charged for an agency’s response letter.

Prepayment: Prior to granting a request for access in accordance with the RTKL, 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 a request is fulfilled and prepared for release, the OOR recommends that an agency obtain payment prior to releasing the records.

Questions: If you have any questions regarding the OOR’s Official Fee Schedule, please [contact the OOR](#) (email: openrecords@pa.gov, telephone: 717-346-9903).