

## Open Records Policy

### 1. 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 Northern Tier Regional Planning and Development Commission ("NTRPDC"); to preserve the integrity of NTRPDC's records; and to minimize the financial impact regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

In the event that any term of this Policy conflicts with any provision of the Pennsylvania Right-to-Know Law, or any amendment thereto, the Pennsylvania Right-to-Know Law shall control.

### 2. Designated Open Records Officer

It is the policy of NTRPDC 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 NTRPDC. NTRPDC shall designate the Open-Records Officer from time to time by Resolution. The Open-Records Officer shall be responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

- A. The Open-Records Officer may designate certain employee(s) to process public record requests.
- B. The Open-Records Officer is responsible for minimizing, where possible, the financial impact to NTRPDC regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

### 3. Requests for Public Records

- A. All requests for public records of NTRPDC under this policy shall be in writing and must be addressed to the Open-Records Officer. Employees of NTRPDC are directed to forward all requests for records to the Open-Records Officer. A written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested and shall include the name and address to which NTRPDC should address its response.

- B. Upon receiving a request for a public record, legislative record or financial record, the open-records officer shall do all of the following:
- (i) Note the date of receipt on the written request.
  - (ii) Compute the day on which the five-day period under Paragraph 4A, below, will expire and make a notation of that date on the written request.
  - (iii) 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.

#### 4. Response to Request for Public Record

A. General rule. Upon receipt of a written request for access to a record, the Open-Records Officer shall make a good faith effort to determine if the record requested is a public record, legislative record or financial record and whether NTRPDC has possession, custody or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. All applicable fees shall be paid in order to receive access to the record requested. The time for response shall not exceed five business days from the date the written request is received by the Open-Records Officer. If the Open-Records Officer fails to send the response within five business days of receipt of the written request for access, the written request for access shall be deemed denied.

#### B. Extension of time.

- (i) Determination.--Upon receipt of a written request for access, the Open-Records Officer shall determine if one of the following applies:
  - (1) the request for access requires redaction of a record in accordance with Pennsylvania Right-to-Know Law;
  - (2) the request for access requires the retrieval of a record stored in a remote location;

- (3) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- (4) a legal review is necessary to determine whether the record is a record subject to access under this act;
- (5) the requester has not complied with NTRPDC's policies regarding access to records;
- (6) the requester refuses to pay applicable fees; or
- (7) the extent or nature of the request precludes a response within the required time period.

(ii) Notice.—

- (1) Upon a determination that one of the factors listed in subsection (i) applies, the Open-Records Officer shall send written notice to the requester within five business days of receipt of the request.
- (2) The notice shall include a statement notifying the requester that the request for access is being reviewed, 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 in section 4A, 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.
- (3) 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.

(iii) NTRPDC may respond to a request by notifying the requestor that the requested information is available through any publicly accessible electronic means or by providing access to inspect the record electronically. If the requester is unwilling or unable to access the record electronically, the requester may, within

30 days following receipt of NTRPDC's notification, submit a written request to NTRPDC to have the record converted to paper. The agency shall provide access to the record in printed form within five days of the receipt of the written request for conversion to paper.

- C. Denial. If NTRPDC's response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:
- (i) A description of the record requested.
  - (ii) The specific reasons for the denial, including a citation of supporting legal authority.
  - (iii) The typed or printed name, title, business address, business telephone number and signature of the Open-Records Officer on whose authority the denial is issued.
  - (iv) Date of the response.
  - (v) The procedure to appeal the denial of access

D. Approval

- (i) If access to the public record requested is approved, the public record shall be available for access and duplication during the regular business hours of NTRPDC. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect NTRPDC 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.
- (ii) Fees for duplication of public records shall be as established by NTRPDC by Resolution from time to time. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the Open-Record Officer designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of NTRPDC resources.
- (iii) 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. When responding to a request for access, NTRPDC shall not be required to create a record which does not

currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.

E. Redaction. If NTRPDC determines that a public record, legislative record or financial record contains information which is subject to access as well as information which is not subject to access, the agency's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, NTRPDC shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. NTRPDC may not deny access to the record if the information which is not subject to access is able to be redacted. Information which an agency redacts in accordance with this subsection shall be deemed a denial

#### 4. Appeals

A. Unless otherwise set forth in paragraph 4B, below, if a 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 NTRPDC'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 NTRPDC for delaying or denying the request.

B. Within 30 days of the mailing date of the final determination of the appeals officer, the requester or NTRPDC may file a petition for review or other document as required by rule of court with the Court of Common Pleas of Bradford County. A petition for review under this section shall stay the release of documents until a decision is issued.

5. Posting. The following information shall be posted at NTRPDC Building and, if NTRPDC maintains an Internet website, on NTRPDC's Internet website:

(1) Contact information for the Open-Records Officer.

- (2) Contact information for the Office of Open Records or other applicable appeals officer.
- (3) A form which may be used to file a request.
- (4) A copy of this Policy and any related Resolutions and Fee Schedules.