

BUTLER AREA SEWER AUTHORITY

ACCESS TO PUBLIC RECORDS POLICY

Adopted by Authority Board at December 31, 2008 Meeting)

The purpose of this policy is to assure compliance with the Pennsylvania's Right-to-Know Law, 65 P.S. 66.1 §§ *et seq.*, as amended by Act No. 3 of 2008, to provide access to public records of the Butler Area Sewer Authority, to preserve the integrity of its records and to minimize the financial impact to the persons and residents of the service area of the Butler Area Sewer Authority and the Commonwealth of Pennsylvania regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Section 1. The Butler Area Sewer Authority designates the Manager, or his or her designee, as its Open-Records Officer (ORO). The ORO may be reached as follows:

Manager and Open-Records Officer (ORO)
100 Litman Road
Butler PA 16001
Phone: (724) 282-1978
Fax: (724) 282-7656
openrecordsofficer@basapa.org

Section 2. A copy of this policy, the contact information for the Authority ORO, the contact information of the Pennsylvania Office of Open Records, the records request form approved by the adoption of this Policy, and the standard right-to-know request form approved by the Pennsylvania Office of Open Records shall also be posted on the Authority's website (www.basapa.org) and at the office of the Authority pursuant to Section 504 of Act No. 3.

Section 3. The obligations of the ORO shall be as follows:

- (a) Note the date of receipt of written request.
- (b) Compute the day on which the five-day period for a response will expire and make a notation of that 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 at least 30 days or, if an appeal is filed, until a final determination is issued under Section 1101(b) of Act No. 3 or the appeal is deemed denied.
- (d) Create a file for the retention of the original request, a copy of the response, a record or written communications with the requester and a copy of other communications. See Section 502(b)(2)(i - iv) of Act No. 3.
- (e) Provide the requestor with an appropriate response or determination as required by Act No. 3.

Section 4. It is the policy of the Butler Area Sewer Authority to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of its public records.

- Section 5. All requests for public records under Act No. 3 made to the Butler Area Sewer Authority shall be:
- (a) Addressed to the Authority's ORO designated above; and,
 - (b) Submitted in writing, utilizing the form approved herein and entitled "Public Record Review/Duplication Request", or the Pennsylvania Office of Open Records "Standard Right-to-Know Request Form". Completed forms may be submitted in person, by mail, by facsimile, or by e-mail. The Authority will NOT honor any verbal or anonymous requests.
- Section 6. Employees other than the designated ORO who receive requests are to direct such requests to the ORO.
- Section 7. Written requests should identify or describe the record(s) sought with sufficient specificity to enable the Authority to ascertain which records are being requested and shall include the name and address to which the Authority shall address its response.
- Section 8. In no case shall the Butler Area Sewer Authority be required to create a public record which does not exist or compile, maintain, format or organize a public record in a manner in which the Butler Area Sewer Authority does not currently compile, maintain, format or organize such records.
- Section 9. The time for response by the ORO shall not exceed five (5) business days from the date the written request is received by him or her. If the ORO fails to respond within five (5) business days of receipt of the written request, the request shall be deemed denied.

The following guidelines apply to the response:

- (a) Determination. – Upon receipt of a written request for public records access, the ORO shall determine if one of the following applies:
 - (1) The request for access requires redaction of a record in accordance with Section 706 of Act No. 3,
 - (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 Act No. 3,
 - (5) The requester has not complied with the Authority's policies regarding access to records,
 - (6) The requester refuses to pay applicable fees authorized by Act No. 3, or
 - (7) The extent or nature of the request precludes a response within the required time period.
- (b) Notice.
 - (1) Upon determination that one of the factors listed in subsection (a) applies, the ORO shall send written

notice to the requester within five business days of receipt of the request for access.

- (2) The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for 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 901 of Act No. 3, 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 Authority has not provided a response by that date.

(c) Denial.

If the 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:

- (1) A description of the record requested.
- (2) The specific reasons for the denial, including a citation of the supporting legal authority.
- (3) The typed or printed name, title, business address, business telephone number and signature of the ORO on whose authority the denial is issued.
- (4) Date of the response.
- (5) The procedure to appeal the denial of access under Act No. 3.

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Pennsylvania Office of Open Records within 15 business days of the mailing date of the Authority's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the Authority for delaying or denying the request. The address of the Office of Open Records to effectuate the filing of such an appeal is:

Executive Director
Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
Phone: (717) 346-9903
E-mail: openrecords@state.pa.us

(d) Approval/ Certified Copies or Access.

If the response grants a request for access, the Authority shall, upon request, provide the requester with a copy or certified copy record if the requester pays the applicable fees under Section 11 below.

If the Authority's response to a request states that copies of the requested records are available for delivery at the office of the Authority and the requester fails to retrieve the records within 60 days of the Authority's response, the Authority may dispose of any copies which have not been retrieved and retain any fees paid to date.

See Section 902 through 905 of Act No. 3.

Section 10. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Butler Area Sewer Authority. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the Butler Area Sewer Authority's public records from the possibility of theft, destruction and/or modification. The presence of a designated employee is required when public records are examined and inspected.

Section 11. Fees and Expenses.

- (a) Photocopying: \$0.25 per page
- (b) Duplication of public electronic and/or tape records: Actual cost to the Butler Area Sewer Authority of duplicating the public record.
- (c) Certified copies: \$1.00 per page
- (d) Postage: Actual cost to the Butler Area Sewer Authority of mailing the public record.
- (e) 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 from the requester fifty percent (50%) of the expected cost in advance of fulfilling the request.

Section 12. Effective Date.

This Policy shall take effect on January 1, 2009.

**POLICY STATEMENT OF THE AUTHORITY BOARD
ADOPTED AT THE ADVERTISED, SCHEDULED
PUBLIC MEETING HELD ON DECEMBER 31, 2008.**

Van Peterson, Secretary

BUTLER AREA SEWER AUTHORITY

PUBLIC RECORD REVIEW/DUPLICATION REQUEST

PLEASE PRINT LEGIBLY

Date of Request: _____

Requester's Name: _____

Requester's Address: _____

Requester's Telephone Number: _____

I request review duplication (check applicable boxes) of the following records.

Important: You must identify or describe the records with sufficient specificity to enable the Butler Area Sewer Authority to determine which records are being requested. Use additional sheets if necessary.

I certify that I am a legal resident of the United States.

Signature of Requester

(This request may be submitted in person, by mail, by facsimile, or by e-mail to: Open-Records Officer, Butler Area Sewer Authority, 100 Litman Road, Butler, PA 16001 - Fax (724) 282-7656; openrecordsofficer@basapa.org)

TO BE COMPLETED BY THE BUTLER AREA SEWER AUTHORITY:

Request No.: _____

Date Received: _____

ACTION TAKEN:

Approved

Date of Approval: _____

Denied

Date Notice Mailed: _____

Other Response

Date Notice Mailed: _____

Signature – Open-Records Officer

BUTLER AREA SEWER AUTHORITY
DENIAL OF REQUEST TO REVIEW
AND/OR DUPLICATE PUBLIC RECORDS

Date of Denial: _____

Requester's Name: _____

Requester's Address: _____

RE: Denial of Request to Review and/ or Duplicate:

Request No.: _____ Date of Request: _____

Dear Mr./Mrs./Ms. _____ :

Please be advised that your request to review duplicate the following records:

has been denied for the following reason(s):

This denial is based upon the following legal authority:

You have the right to appeal this decision. If you appeal, you must file an appeal with the Pennsylvania Office of Open Records within 15 business days of the mailing date of the Authority's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the Authority for delaying or denying the request. The address of the Pennsylvania Office of Open Records to effectuate the filing of such an appeal is:

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Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
Phone: (717) 346-9903
E-mail: openrecords@state.pa.us

Signature – Open-Records Officer