

**MUNICIPALITY OF PENN HILLS**  
Ordinance No. 2504 of 2008

**AN ORDINANCE OF THE MUNICIPALITY OF PENN HILLS, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING AN OPEN RECORDS POLICY IN ACCORDANCE WITH PENNSYLVANIA ACT 3 OF 2008.**

**WHEREAS**, Act 3 of 2008 was enacted by the General Assembly of the Commonwealth of Pennsylvania and signed by the Governor on February 14, 2008; and,

**WHEREAS**, the provisions of Act 3 of 2008 become effective and enforceable on January 1, 2009, regarding access to public information; and,

**WHEREAS**, the Municipality of Penn Hills wishes to establish a local policy to carry-out the provisions of this new act; and,

**NOW, THEREFORE, THE MUNICIPALITY OF PENN HILLS HEREBY ORDAINS, IN A MEETING DULY CONVENED, THE FOLLOWING:**

**Section 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 the Municipality of Penn Hills; to preserve the integrity of municipal records; and to minimize the financial impact to the residents of the Municipality regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

**Section 2. Designated Open Records Officer**

It is the policy of the Municipality of Penn Hills 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 Municipality. The Municipality of Penn Hills designates the Municipal Manager/Clerk as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

a. The Municipal Manager may designate certain employee(s) to process public record requests.

b. The Municipal Manager is responsible for minimizing, where possible, the financial impact to the Municipality regarding the resources utilized in the receipt and processing of public records requests and the retrieval and copying of public records.

c. All requests for public records of the Municipality under this policy shall be specific in identifying and describing each public record requested. In no case shall the Municipality 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 Municipality 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; requester's name, address and phone number, certification of United States residency; signature of requester; 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 Municipality shall facilitate a reasonable response to a request for Municipal public records. In no case is the Municipality expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Municipality's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.

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

g. The response provided by the Municipality shall consist of: (1) approval for access to the public record; (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 Municipality. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect municipal 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 Municipality 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 Municipal resources.

k. If the request is being reviewed, the notice provided by the Municipality 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 Municipality does not respond within the thirty (30) days thereof, the request is deemed denied. Review of the request is limited to situations where:

1. 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;
2. The record requires retrieval from a remote location;
3. A timely response cannot be accomplished due to staffing limitations;
4. A legal review is necessary to determine whether the record requested is a public record;
5. The requester has failed to comply with the Municipality's policy and procedure requirements; or
6. The requester refuses to pay the applicable fees.
7. 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 Municipality shall send written notice to the requester within five (5) 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, 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 thirty (30) days following the five (5) 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 Municipality shall be in writing as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate Penn Hills' Municipal 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 Municipality'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 thirty (30) days of the mailing date of the final determination of the appeals officer, the requester or Municipality may file a petition for review or other document as required by rule of court with the Court of Common Pleas for Allegheny 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 in the Manager's Office of the Penn Hills Municipal Building,

**Section 3: Severability.**

It is hereby declared to be the intention of the Council of the Municipality of Penn Hills that the several provisions of this Ordinance are separable. If any court of competent jurisdiction shall declare any words, sentences, sections or provisions of this Ordinance to be invalid, such a ruling shall not affect any other words, sentences, sections or provisions of this Ordinance not specifically included in said ruling.

**Section 4: Repealer.**

All Ordinances, or parts of Ordinances, in conflict with the provisions of this Ordinance, are hereby repealed.

THIS ORDINANCE APPROVED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE MUNICIPALITY OF PENN HILLS ON THIS 17TH DAY OF DECEMBER, A.D., 2008.

By:

/s/ Anthony L. DeLuca, Mayor

Attest:

/s/ Terry E. Van Horne, Manager

SEAL

MUNICIPALITY OF PENN HILLS  
Municipal Records Request Form



Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number (            ) \_\_\_\_\_

Description of Records (for more space, continue on back or extra sheet of paper)

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Instructions (Circle One): Pick-up   Fax   Mail   Put on Disk   E-mail  
(Please provide a daytime telephone number, fax number, mailing address or e-mail address below)

Signature (when request is fulfilled) \_\_\_\_\_

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**FOR OFFICE USE ONLY:**

Fees for: Copies \_\_\_\_\_ Postage \_\_\_\_\_ Disk \_\_\_\_\_ Fax \_\_\_\_\_

Total Cost: \$ \_\_\_\_\_

Date Request Fulfilled: \_\_\_\_\_

Initials of Staff Member Fulfilling Request: \_\_\_\_\_

Date Information was: Picked up \_\_\_\_\_ Faxed \_\_\_\_\_ Mailed \_\_\_\_\_