BOROUGH OF SEVEN FIELDS

ORDINANCE NO. 74

AN ORDINANCE ADOPTING THE OPEN RECORDS POLICY

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Seven Fields, Butler County, Pennsylvania, as follows:

Section I

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 Seven Fields Borough; to preserve the integrity of Seven Fields Borough 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. Seven Fields Borough designates the 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 Manager may designate certain employee(s) to process public record requests.

B. The Borough Manager 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 the describing each public record requested. In no case shall the Borough be required to create a public record which does not exist or to 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 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 Borough shall facilitate a reasonable response to a request for Seven Fields 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 within five (5) business days from the date of receipt of the written request. If the Borough does not respond within 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 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 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, 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 date 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 Seven Fields 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) 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 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 please of Butler 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 the Ordinance be and the same is hereby repealed insofar as the sale affects this Ordinance.

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 Seven Fields Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 4

Effective Date. This Ordinance shall become effective on July 14, 2008.

ENACTED AND ORDAINED this 14th day of July 2008.

SEVEN FIELDS BOROUGH COUNCIL

/s/ John Oakley
John Oakley, President

ATTEST:

/s/ Thomas B. Smith
Thomas B. Smith, Secretary/Borough Manager

BOROUGH OF SEVEN FIELDS
PUBLIC RECORD REVIEW/DUPLICATION REQUEST

Please print legibly.

Date of Request:_____

Requester's Name:_____

Requester's Address:_____

_____

Requester's Telephone:_____

I request _____ review _____ duplication (check as appropriate) of the following records. **Important:** You must identify or describe the records with sufficient specificity to enable the Borough to determine which records are being requested. Use additional sheets if necessary.

_____

_____

_____

_____

_____

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

_____
Signature of Requester

This request may be submitted in person, by mail, by facsimile or e-mail to:

Borough of Seven Fields
2200 Garden Drive, Suite 100
Seven Fields, PA 16046
724-776-3090
724-776-3082 (fax)

BOROUGH OF SEVEN FIELDS
DENIAL OF REQUEST TO REVIEW AND/OR DUPLICATE

Date of Denial:_____

Requester's Name:_____

Requester's Address:_____

_____

Re: Denial of Request to Review and/or Duplicate _____

Date of Request:_____

Dear _____:

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:

1. Within fifteen (15) days of the notice of denial or deemed denial, file an appeal with the Commonwealth of Pennsylvania, Department of Community and Economic Development, Office of Open Records. 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 Borough for delaying or denying the request.

_____
Borough of Seven Fields
Open Records Officer