

## **Open Records Requests**

### **Administrative Regulations and Policies**

#### **Public Access to Township Records Which Qualify as Public Records Under State Law**

##### **Definitions set forth in Act 3 of 2008:**

**Financial record** - any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the salary or other payments or expenses paid to an officer or employee, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.

**Public record** - a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law or under other federal or state law or regulation, or judicial decree or order.

**Record** - information, regardless of physical form or characteristics, that documents a Township transaction or activity and is created, received or retained pursuant to law or in connection with a Township transaction, business or activity, including: a document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and a data processed or image-processed document.

##### **In General – the Open Records Officer shall:**

1. Receive written requests for access to records submitted to the Township.
2. Review and respond to written requests in accordance with law, Board policy and administrative regulations.
3. Direct requests to other appropriate individuals in the Township or in another agency when necessary.
4. Monitor and record the Township's progress in responding to requests.
5. Issue interim and final responses to submitted requests.
6. Maintain a log of all record requests and their disposition.
7. Ensure Township staff are trained to perform assigned job functions relative to requests for access to records.

##### **Specifically, upon receiving a request for access to a record, the Open Records Officer shall:**

1. Note the date of receipt on the written request.
2. Compute and note on the written request the day on which the five-day period for response will expire.
3. If the written request is approved in full, maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.

4. If the written request is denied or denied in part, maintain the written request for thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

#### Procedure for Requesting Records

All written requests for access to a public record shall be submitted on the required form attached hereto as Attachment "A", or on the state form, and addressed to the Open Records Officer.

Written requests shall be submitted to the Township in person, by mail, to a designated facsimile machine (if any) or to a designated e-mail address (if any). Any request received by the Township after normal office hours, 4:00 p.m. E.S.T., or on a day when the Township offices are closed, shall be deemed received the next day on which the Township offices are open.

Each request must include the following information:

1. Identification or description of the requested record, in sufficient detail to enable the Township to ascertain which records are being requested.
2. Medium in which the record is requested.
3. Name and address of the individual to receive the Township's response.

Neither the Township nor the Open Records Officer shall require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.

#### Response to Request

Township employees shall be directed to forward requests for access to public records to the Open Records Officer. Requests not properly addressed to the Open Records Officer shall not be deemed received unless and until the Open Records Officer actually receives the written request.

Upon receipt of a written request for access to a record, the Open Records Officer shall determine if the requested record is a public record and if the Township has possession, custody or control of that record.

The Open Records Officer shall respond as promptly as possible under the circumstances then existing, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer.

The initial response shall grant access to the requested record, deny access to the requested record, partially grant and partially deny access to the requested record, or notify the requestor of the need for an extension of time to fully respond.

Normally, records are available at the Township from 8:00 a.m. to noon and from 1:00 p.m. and 4:00 p.m. Monday through Friday each week except for certain holidays and when the offices are closed for emergencies.

#### Extension of Time

If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in Act 3, written notice of the need for an extension shall be sent within five (5) business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension; and a reasonable date by which the response can be expected.

Up to a thirty (30) day extension for one (1) of the listed reasons does not require the consent of the requestor. If the response is not given by the specified date, it shall be deemed denied on the day following that date.

A requestor may consent in writing to an extension that exceeds thirty (30) days, in which case the request shall be deemed denied on the day following the date specified in the notice if the Open Records Officer has not provided a response by that date.

#### Granting Of Request

If the Open Records Officer determines that a request to inspect will be granted, the response shall inform the requestor that access is granted and either include information on the regular business hours of the administration office, provide electronic access, or state where the requestor may go to inspect the records or information electronically at a publically accessible site. The response shall state the amount of any applicable fee and a statement that all applicable fees shall be paid in order to receive access to the record requested and the medium in which the records will be provided.

If the Open Records Officer determines that a request to copy will be granted, the response shall inform the requestor that access is granted and either include information on the regular business hours of the administration office where the records can be retrieved, or state where the requestor may go to retrieve copies of the records. The response shall state the amount of the applicable fees, a statement that all applicable fees shall be paid in order to retrieve copies of the records requested, and the medium in which the records will be provided. The Open Records Officer may respond to a records request by notifying the requestor that the record is available through publicly accessible electronic means or that the Township shall provide access to inspect the record electronically. If the requestor, within thirty (30) days following receipt of the Township's notice, submits a written request to have the record converted to paper, the Township shall provide copies in printed form within five (5) days of receipt of the request for conversion to paper.

Prepayment of an estimate of fees is required if reproduction of the records is expected by the Open Records Officer to cost in excess of one hundred dollars (\$100.00). The response of the Open Records Officer shall so state if prepayment is required. If the actual cost is less than the estimate, the Open Records Officer shall return the difference to the requestor. If the actual cost is higher than the estimate, the requestor shall pay the difference prior to the copies being given or sent to the requestor.

### Denial of Request

The Open Records Officer may deny a request for access to or copies of a record if the requestor has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the Township.

The Open Records Officer may deny a request for access to a record when timely access is not possible due to a fire, flood or other disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, the contents of a record shall be made accessible even when the record is physically unavailable due to fire, flood or other disaster.

Information that is not subject to access or is redacted from a public record which has been produced shall be deemed a denial as to that information.

If the Open Records Officer responds to a requestor that a copy of the requested record is available for delivery at the administration office and the requestor does not retrieve the record within sixty (60) days of the Township's response, the Township shall dispose of the copied records and retain any fees paid to date.

If a written request for access to a record is denied or deemed denied, the requestor may file an appeal with the state's Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.

If the Open Records Officer denies a request for access to or copies of a record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request. The response denying the request shall include the following:

1. Description of the record requested.
2. Specific reasons for denial.
3. Name, title, business address, business telephone number, and signature of the Open Records Officer on whose authority the denial is issued.
4. Date of the response.
5. Procedure for the requestor to appeal the denial of access or copies.

### Documents Not Qualifying As Public Records:

Documents will not be considered public records if they fall outside the definition of "public record" under the Pennsylvania Right to Know Law or meet one of the exceptions for public records contained within the Law. Documents which do not qualify as public records include the following (this list is intended as a summary or short-hand

explanation and is not intended to be inclusive or to modify or supersede the legal requirements of the Pennsylvania Right-to-Know Law):

- Internal pre-decisional deliberations of administrators, employees and Board members
  - unless presented to a quorum for deliberation at a public meeting
  - includes real estate appraisals until decision made to proceed with lease, sale or acquisition of property
- Draft minutes of meetings
- Executive Session minutes or record of discussion
- Bid proposals
- Communication with insurance carriers
- Privileged communications:
  - communications with Township Solicitor or other attorneys
  - doctor-patient communications; and
  - speech and debate privilege – applicable to legislative functions
- Records which, if disclosed, would
  - result in loss of Federal or State funds;
  - likely lead to physical harm or personal security of a person;
  - jeopardize safety of the public, a building, infrastructure, information storage system, or resource; or
  - jeopardize computer security
- Records identifying the name, home address or date of birth of a child (17 years of age or younger)
- Records of an individual's
  - confidential personal health information
  - applications for social services; or
  - confidential personal information such as social security number, driver's license, financial information, email address and personal phone numbers
- Records of employees:
  - reference letters and written criticisms
  - employment applications (if not hired)
  - employee assistance program information
  - grievances and complaints of discrimination
  - discipline, demotion and discharge (except for final action of discharge or discipline)
  - academic transcript
  - NOTE: Other confidentiality restrictions may apply to employee records under other laws.
- Certain records relating to criminal and non-criminal investigations
- Transcripts and exhibits of arbitration hearings (final decision is public however)
- Drafts of policies, resolutions or administrative regulations
- Trade secrets or other confidential proprietary information
- Personal notes and working papers of an individual, includes message slips

Fees

Fees for duplication and, where applicable, document retrieval will be charged according to the following fee schedule which shall be periodically updated:

Postage	Actual Cost to Township
Certification costs	\$1.00 per record certified
Duplication costs	
Paper copying charge	\$.25 per page
Facsimile charge	\$.35 per page
Electronic records copied to disc	Actual cost of disc + \$.10 per page
Electronic records copied to paper	\$.25 per page
Enhanced electronic access (e-mail)	\$.10 per transmission \$.10 per attachment
Police Accident Reports	\$15 per report (by statute)

For complex and extensive data sets, including geographic information systems or integrated property assessment lists, fees for copying may be based on the reasonable market value of same or closely-related data sets. These fees shall not apply to a request by an individual employed by or connected with a newspaper or magazine of general circulation, weekly publication, press association or radio or television station, for the purpose of obtaining information for publication of broadcast, or to a request by a non-profit organization for the conduct of educational research.

Exceptions

Pursuant to Section 707(b)(3) of the Right-to-Know Law, all building floor plans and alarm system details and specifications for all buildings in the Township shall not be disclosed publicly, but may be released to the owner of record or a design professional authorized in writing by the owner of record.

**RIGHT-TO-KNOW REQUEST FORM**

DATE REQUESTED: \_\_\_\_\_

REQUEST SUBMITTED BY (circle one): E-MAIL    U.S. MAIL    FAX    IN-PERSON

NAME OF REQUESTOR (required): \_\_\_\_\_

STREET ADDRESS (required): \_\_\_\_\_

CITY/STATE/COUNTY (required): \_\_\_\_\_

TELEPHONE (Optional): \_\_\_\_\_

**RECORDS REQUESTED:**

*\*Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT TO INSPECT THE RECORDS ONLY?    YES                  NO

MEDIUM IN WHICH THE RECORD IS REQUESTED? \_\_\_\_\_

(Note: The law does not require that any public records be produced except in the format by which they are kept by the Township)

DO YOU WANT COPIES (\$.25 per page)?    YES                  NO

DO YOU WANT CERTIFIED COPIES OF RECORDS (\$1.00 per record)?    YES                  NO

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**For Municipal Use Only:**

DATE RECEIVED BY THE AGENCY: \_\_\_\_\_

ACTION TAKEN:    APPROVED                  NOT APPROVED

DATE OF ACTION: \_\_\_\_\_

OPEN RECORDS OFFICER INITIALS: \_\_\_\_\_