

RESOLUTION NO. 1-2009

ADOPTING A POLICY FOR IMPLEMENTING THE RIGHT-TO-KNOW LAW REGULATING ACCESS TO PUBLIC RECORDS OF THE TOWNSHIP OF FAIRFIELD

WHEREAS, the legislature has enacted a substantial revision to the Pennsylvania Right-To-Know Law (Act 3 of February 14, 2008) providing for access to public information in the possession of local agencies, their boards, commissions and contractors; and

WHEREAS, the legislature has created the Office of Open records to enforce, the Right-To-Know Law and to serve as a resource for citizens, public officials, and members of the media in obtaining public records; and

WHEREAS, the newly enacted Right-To-Know Law became effective on January 1, 2009 and mandates a revision to current policies and procedures employed by Fairfield Township for processing Right-To-Know requests.

NOW, THEREFORE, the Board of Supervisors of Fairfield Township hereby approves and adopts the following policy for implementing the Right-To-Know Law regulating access to public records of Fairfield Township, effective February 12, 2009

FAIRFIELD TOWNSHIP **POLICY FOR IMPLEMENTING THE RIGHT-TO-KNOW LAW REGUALTING** **ACCESS TO PUBLIC RECORDS**

The purpose of this policy is to assure compliance with the Pennsylvania Right-To-Know Law, 65 P.S. § 67.101 *et seq.*, as amended (P.L. 6 February 14, 2008) to provide access to public records of the Township of Fairfield, to preserve the integrity of Fairfield Township's records, and to minimize the financial impact to the residents of Fairfield Township ("Township") regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

It is the policy of the Township 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 Township. The Secretary, or in his or her absence, the Chairman of the Board of Supervisors of the Township is designated as the Open Records Officer responsible for assuring compliance with the Pennsylvania Right-To-Know Law, in accordance with the following guidelines.

1. The Open Records Officer may designate certain employee(s) to process public record requests.

2. The Open Records Officer is responsible for minimizing where possible, the financial impact on the Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

3. All requests for public records of the Township under this policy shall be specific in identifying and describing each public record requested. In no case shall the Township 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 Township does not currently compile, maintain, format or organize the public record.

4. All requests for public records shall be submitted in writing and on the form provided by the State Office of Open Records which can be obtained from the Township upon request. The form must be fully completed to be accepted. No oral or anonymous requests will be accepted.

5. Record requests may be submitted to the Open Records Officer in person, by mail, by facsimile or by e-mail. The request shall be deemed received on the date it is actually received by the Township.

6. The Open Records Officer shall make a good faith effort to determine whether each record requested is a public record, whether the agency has possession custody or control of the identified record and, if so, whether it is subject to access.

7. The Open Records Officer shall facilitate a reasonable response for the Township's public records requests. In no case is the Township expected to provide extraordinary staff time to respond to the request, but will respond in a manner consistent with the Township's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-To-Know Law.

8. The Open Records Officer shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Township does not respond within five (5) business days of receipt thereof, the request is deemed denied.

9. The response provided by the Township shall either (1) approve access to the record; (2) state that the request is being reviewed; (3) approve in part and deny in part; or (4) deny access to the record.

10. If access to the public record requested is approved, the public record shall be available for access during regular business hours of the Township. The Public Records Officer shall cooperate fully with the requester, while also taking reasonable measures to protect the Township's 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.

11. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the Township shall obtain fifty percent (50%) of the expected cost in advance of fulfilling the request to avoid unwarranted expense of the Township resources. In any event, at the time of providing any requested copies the Township shall provide the requester with an invoice, payment of which shall be required prior to providing the requested copies.

12. If the request is being reviewed, the notice provided by the Township shall be in writing including the reason for the review and the expected response date, which shall be within thirty (30) days of the notice of review. If the Township does not respond within the 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; or
- (b) The record requires retrieval from a remote location; or
- (c) A timely response cannot be accomplished due to staffing limitations; and
- (d) A legal review is necessary to determine whether the record requested is a public record; or
- (e) The requester has failed to comply with the Township's policy and procedure requirements; or
- (f) The requester refuses to pay the applicable fees; or
- (g) The extent or nature of the request precludes a response within the required time period; or

13. If access to the record requested is denied in whole or in part, the notice provided by the Township shall be in writing and contain:

- (a) A description of the record requested/
- (b) The specific reasons for the denial, including a citation of supporting legal authority.
- (c) The name, title, business address, business telephone number and signature of the Open Records Officer on whose authority the denial is issued.
- (d) Date of the response.
- (e) The procedure to appeal the denial of access under the Right-To-Know Act.

14. The Open Records Officer shall maintain an electronic or paper copy of all requests, Consistent with the Department's retention schedule, but in any event, until:

- (a) The request has been fulfilled; or
- (b) 30 days have elapsed after a denial; or
- (c) A final decision has been made on any appeal.

15. Fees for duplication of public records shall be as follows, but not in excess of those Authorized by the Office of Open Records, except where a higher charge is authorized by law:

- (a) Photocopying: 25 cents (\$0.25) per page.
- (b) Duplication of public records and/or tape records: actual cost to the Township of duplicating the public record.
- (c) Certified copies: \$1.00 per page.
- (d) Postage: actual cost to the Township of mailing the public record.
- (e) Research: \$15.00/hours or fraction thereof

The Township may, in its discretion waive fees. If a public record is subject to access, but is in the possession of a party other than the Township, the Open Records Officer shall assess a duplication fee, but upon collection shall remit the fee to the party in possession of the record if that party duplicated the record.

16. If the request is denied or deemed denied, the requester may file an appeal with the Office of Open Records within fifteen (15) business days of the mailing date of the Township's notice of denial, or within fifteen (15) days of a deemed denial. The appeal should be in writing and addressed to: Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120. The appeal must:

- (a) State the grounds upon which the requester asserts that the record is a public record.
- (b) Address any grounds stated by the Township for delaying or denying the request.

17. This policy shall be posted conspicuously at the Township building together with Contact information for the Open Records Officer, the Pennsylvania Office of Open Records and a Request Form.

18. This policy supercedes any and all prior Open Records policy of the Township.

RESOLVED, this twelfth day of February, 2009

FAIRFIELD TOWNSHIP

ATTEST:

By:

PAUL ALTIMUS, Chairman

EMMA J. BRENDLINGER, Secretary

VAUGHN TANTLINGER, Supervisor

JAMES BROWN, Supervisor