

OFFICIAL

**TOWNSHIP OF HANOVER
RESOLUTION NO. 2007-11**

A RESOLUTION OF THE TOWNSHIP OF HANOVER, BEAVER COUNTY, PENNSYLVANIA, ESTABLISHING POLICIES FOR PUBLIC RECORD REQUESTS PURSUANT TO THE RIGHT TO KNOW LAW, 65 P.S. §66.1 *et seq.*, AS AMENDED.

WHEREAS, the Right to Know Law, 65 P.S. §66.1 *et seq.*, regulates access to public records; and

WHEREAS, Act 100 of 2002, enacted on June 29, 2002, amended the Right to Know Law to provide enhanced regulations for access to public records; and

WHEREAS, Section 8(a) the amended Right to Know Law, 65 P.S. §66.8(a), requires the Township of Hanover (the "Township") to establish written policies governing requests for the review of public records; and

WHEREAS, the Board of Supervisors of the Township desires to establish written policies for the request and review of public records pursuant to, and consistent with, the Right to Know Law, as amended.

NOW, THEREFORE, the Board of Supervisors of the Township of Hanover hereby resolves as follows:

SECTION 1. SHORT TITLE. This Resolution shall be known as the "Hanover Township Public Record Request Policy".

SECTION 2. DEFINITIONS. The following words and phrases, when used in this Resolution, shall have the meaning given to them in this Section unless the context clearly indicates otherwise.

ACT – The Right to Know Law, 65 P.S. §66.1 *et seq.*, as amended.

TOWNSHIP – The Township of Hanover.

BOARD OF SUPERVISORS – The Board of Supervisors of the Township of Hanover.

TOWNSHIP SECRETARY – The Secretary of the Township of Hanover, or his or her designee.

PUBLIC RECORD – Any account, voucher or contract dealing with the receipt or disbursement of funds by the Township or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by the Township fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons: Provided, That the term "public records" shall not mean any report, communication or other paper, the publication of which would disclose the institution, progress or result of an investigation undertaken by the Township in the performance of its official duties; it shall not include any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute, law, or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Township of federal funds, excepting therefrom however the record of any conviction for any criminal act.

RECORD – Any document maintained by the Township, in any form, whether public or not.

REQUESTER – A person who is a resident of the Commonwealth of Pennsylvania and requests a record pursuant to the Act.

RESPONSE – Access to a record or the Township’s written notice granting, denying or partially granting and partially denying access to a record.

SECTION 3. PROCEDURE FOR ACCESS TO PUBLIC RECORDS OF THE TOWNSHIP.

- a. **General Rule.** Unless otherwise provided by law, a public record of the Township shall be accessible for inspection and duplication by a requester in accordance with the Act and this Resolution. A public record shall be provided to a requester in the medium requested if the public record exists in that medium; otherwise it shall be provided in the medium in which it exists. Public records shall be available for access during the regular business hours of the Township, which are: 9:00 a.m. to 3:00 p.m., Monday through Friday, excluding legal or governmental holidays. Nothing in this Resolution shall provide for access to a record which is not a public record.
- b. **Requests.** All requests for access to records of the Township must be in writing on such form as may be prescribed from time to time by the Township Secretary. The Township will not fulfill verbal requests or anonymous requests for access to records. In the event that the requester wishes to pursue the relief and remedies provided for in the Act, the requester must initiate such relief through a written request to the Township.
- c. **Written Requests.** A written request for access to records of the Township shall be transmitted to the Township in person, by mail, or by facsimile. A written request shall be addressed to the Township Secretary, 2731 State Route 18, Hookstown, PA 15050, and shall include: (1) an identification or description the requested records with sufficient specificity to enable the Township to ascertain which records are being requested; and (2) the name and address to which the Township should address its response. A written request need not include any explanation of the requester’s reason for requesting or intended use of the records.
- d. **Creation of a Public Record.** When responding to a request for access, the Township shall not be required to create a public record which does not currently 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.
- e. **Conversion of an Electronic Record to Paper.** If a public record is only maintained electronically, or in another non-paper media, the Township shall, upon request, duplicate the public record on paper when responding to a request for access in accordance with this Resolution.

SECTION 4. ACCESS TO PUBLIC RECORDS.

- a. **General Rule.** The Township may not deny a requester access to a public record due to the intended use of the public record by the requester.
- b. **Redaction.** If the Township determines that a public record contains information which is subject to access as well as information which is not subject to access, then the Township’s response shall grant access to the information which is subject to access, and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record

and cannot be separated, then the Township shall redact from the public record the information which is not subject to access and the response shall grant access to the information which is subject to access. The Township may not deny access to the public record if the information which is not subject to access is able to be redacted. Information which the Township redacts in accordance with this subsection, shall be deemed a denial under Section 5.c. hereof.

SECTION 5. THE TOWNSHIP'S RESPONSE TO WRITTEN REQUEST FOR ACCESS.

- a. **General Rule.** Upon receipt of a written request for access to a record, the Township shall make a good faith effort to determine if the record requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request; provided, however, the Township shall provide a response to the written request within 5 business days from the date the written request is received by the Township. If the Township fails to provide the response within 5 business days after receipt of the written request for access, then said written request shall be deemed denied.

- b. **Exceptions to General Rule.** Upon receipt of a written request for access, if the Township determines that one of the following situations applies to said request, then the Township shall send written notice to the requester within 5 business days of the Township's receipt of the request. This written notice shall include: (1) a statement notifying the requester that the request for access is being reviewed; (2) the reason for the review; and (3) a reasonable date by which a response is expected to be provided. If the date by which the response is expected to be provided is in excess of 30 days, following the 5 business days from the Township's receipt of the request, then the request for access shall be deemed denied.
 - (1) The request for access requires redaction of a public record in accordance with Section 4. hereof.
 - (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 request pertains to public records subject to access under the Act.
 - (5) The requester has not complied with the Township's policies regarding access to public records contained in this Resolution.
 - (6) The requester refuses to pay applicable fees authorized by the Act and imposed by Section 8. hereof.

- c. **Denial of Record Request.** If the Township's response is a denial of a written request for access, whether in whole or in part, then the Township shall send a written response to the requester at the address listed on the written request. This written response denying the written request for access shall include the following:
 - (1) A description of the record requested.
 - (2) The specific reasons for the denial, including a citation of supporting legal authority. If the denial is a result of a determination by the Township that the record requested is not a public record, then the specific reasons for such determination must be included.

- (3) The typed or printed name, title, business address, business telephone number and signature of the Township official or employee who authorized the issuance of the denial.
 - (4) The date of the response.
 - (5) The procedure to appeal the denial under the Act and this Resolution.
- d. **Certified Copies.** If the Township's response grants a request for access, then the Township shall, upon request, provide the requester with a certified copy of the public record if the requester pays the applicable fees referenced in Section 8. hereof.

SECTION 6. FINAL DETERMINATION.

- a. **Filing of Exceptions:** If a written request for access is denied or deemed denied, then the requester may file exceptions with the Township Secretary within 15 business days of the mailing date of the response or within 15 days of a deemed denial. The exceptions shall specifically state the grounds upon which the requester asserts that the record is a public record and shall specifically address any grounds stated by the Township for delaying or denying the request.
- b. **Determination:** Unless the requester agrees otherwise, the Township Board of Supervisors, or its designee, shall make a final determination regarding the requester's exceptions within 30 days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the Township Board of Supervisors, or its designee, may conduct a hearing. The determination of the Township Board of Supervisors, or its designee, shall be the final order of the Township. If the Township Board of Supervisors, or its designee, determines that the Township correctly denied the request for a access, then the Township Board of Supervisors, or its designee, shall provide a written explanation to the requester of the reason(s) for the denial.

SECTION 7. JUDICIAL APPEAL.

- a. **General Procedure.** Within 30 days of the denial by the Township under Section 5.c. above or of the mailing date of a final determination under Section 6. above, a requester may file a petition for review (or other document as may be required by rule of court) with the Court of Common Pleas of Beaver County or bring an action in the local magisterial district having jurisdiction. A requester is entitled to a reasoned decision containing findings of fact and conclusions of law based upon the evidence as a whole which clearly and concisely states and explains the rationale for the decisions so that all can determine why and how a particular result was reached.
- b. **Notice to Township.** The Township shall be served notice of any court or other actions commenced, and shall have an opportunity to respond in accordance with applicable court rules.
- c. **Record on Appeal.** The record before a court shall consist of: the request; the Township's response; the requester's exceptions, if applicable; the hearing transcript, if any; and the agency's final determination, if applicable.

SECTION 8. FEES FOR TOWNSHIP SERVICES AND EXPENSES.

- a. **Schedule of Fees.** The Township shall charge a requester the following fees related to the fulfillment of a record request:
 - (1) **Postage:** the actual cost of mailing.

- (2) **Duplication:** 25¢ per page for non-color photocopies, computer printouts and facsimile transmissions on regular or legal sized paper. As for other specialized duplication services that are required to fulfill the record request, such as duplication of the request by photocopying, printing from electronic media, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication, the Township shall charge the requester the prevailing fees for comparable duplication services provided by local business entities.
 - (3) **Certification:** \$10.00 for official certification of copies, if the certification is at the behest of the requester and for the purpose of legally verifying the public record.
 - (4) **Conversion to Paper:** If a public record is only maintained electronically or in other non-paper media, the Township shall charge the requester a fee for converting the document to paper. This fee shall be limited to the lesser of the fee for duplication on paper or for duplication in the native media as provided by Section 8.a.(2) above, unless the requester specifically requests for the public record to be duplicated in the more expensive medium.
- b. **Waiver of Fees.** The Township may waive the fees for duplication of a public record, including, but not limited to, when: (a) the requester duplicates the public record; or (2) the Township deems it is in the public interest to do so.
 - c. **Other Fees/Limitations.** Except as otherwise provided by statute, no other fees other than those listed in subsection a. hereof may be imposed upon the requester unless the Township necessarily incurs costs for complying with the record request, and such fees shall be reasonable. However, the Township recognizes it may not impose a fee for its review of a record to determine whether the record is a public record subject to access under the Act.
 - d. **Prepayment.** Prior to granting a request for access in accordance with the Act, a requester shall prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100. In no event shall any public records or reports be released until requester first pays the Township all fees due and payable.

SECTION 9. AUDIO/VIDEO TAPES AND MEETING MINUTES.

- a. **General.** Tape recordings (in audio or video format) may be made of public meetings of Township Board of Supervisors and/or other Township agencies and commissions. Tape recordings of such meetings and the proposed minutes related to the same shall not be reviewed by the public until the minutes of the subject meeting have been adopted by formal action of the Board of Supervisors or respective Township agency/commission.
- b. **Public Review.** Tape recordings and meeting minutes shall be available for public review after the respective meeting minutes have been adopted. The tape recordings may be reviewed by members of the public at the Township Office during the regular business hours referenced in Section 3.a. hereof, as long as the method of review does not interfere with the operation of the Township Office. Tape recordings of public meetings referenced in Subsection a. above shall not leave the Township Office.
- c. **Destruction of Tape Recordings.** Tape recordings of public meetings referenced in Subsection a. above may be erased, recycled and/or destroyed by the Township after six (6) months have elapsed from the subject public meeting.

SECTION 10. MISCELLANEOUS.

- a. **Amendments.** The Township Board of Supervisors shall amend these policies by resolution, adopted from time to time.
- b. **Posting.** A copy of this Resolution shall be conspicuously posted at the Township's offices.

SECTION 11. EFFECTIVE DATE. This Resolution shall take effect in accordance with applicable law.


RESOLVED this 17th day of July, 2007, by the Board of Supervisors of the Township of Hanover in lawful session duly assembled.

ATTEST:



Donna Kozarovich
Township Secretary
(SEAL)

TOWNSHIP OF HANOVER

By: 

Gregory E. DeLuca
Chairman, Board of Supervisors