



POLK TOWNSHIP PUBLIC RECORDS ACCESS POLICY

I. PURPOSE

1. The purpose of this administrative policy (the “Policy”) is to assure compliance with the Pennsylvania “*Right-to-Know Law*,” Act 3 of 2008.
2. It is the intent of this Policy to carry out the Township’s authority and obligations under the *Right-to-Know Law*, and as such the Township, as lawful custodian of records, hereby adopts these rules governing the production of public records.

II. DEFINITIONS

Financial Record – Any of the following:

- A. Any account, voucher or contract dealing with:
 - (1) The receipt or disbursement of funds by an agency; or
 - (2) An agency’s acquisition, use or disposal of services, supplies, materials, equipment or property.
- B. The salary or other payments or expenses paid to an officer or employee of an agency, including the name and title of the officer or employee.
- C. A financial audit report. The term does not include work papers underlying an audit.

Public Record – A record, including a financial record, of Polk Township that:

- A. Is not exempt under Section 708 of the Pennsylvania Right to Know Law;
- B. Is not exempt from being disclosed under any Federal or State law or regulation, or judicial order or decree; or
- C. Is not protected by a privilege.

Record – Information, regardless of physical form or characteristics, that documents a transaction or activity of the Township and that is created, received or retained pursuant to law, or in connection with a transaction, business or activity of the Township. The term

includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and data-processed or image-processed documents.

Requester – A person who is a legal resident of the United States and requests a Record pursuant to the *Right-to-Know Law* and this Policy. The term includes an agency as defined by law.

III. **POLICY**

1. Unless otherwise provided by law, a Public Record shall be accessible for inspection and duplication by a Requester. 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 inspection and copying at the Polk Township Municipal Building during normal business hours, Monday, Wednesday, Friday, 9:00 a.m. to 12:00 p.m., with the exception of holidays.
2. It is the Township's policy to require the presence of a designated township employee when files are examined by a Requester, and to charge a reasonable and equitable fee for copying township files that are deemed to be a Public Record. Such fees are set by Pennsylvania's Office of Open Records and shall be listed in the Township's official Fee Schedule and on its Right-to-Know Request form.

IV. **PROCEDURE FOR ACCESS TO PUBLIC RECORDS**

1. All requests for access to Public Records shall be submitted by the Requester, in writing, on an official Request for Public Information form and delivered via mail, fax, email, or in person. Requests made verbally, non-verbally and anonymously, and not made in writing on an official request form by a Requester, will not be honored and are not eligible to be appealed by said Requester if the Township denies the request. Request forms are available at the Township offices and can be downloaded from the Township website at www.polktwp.com. Acceptable forms are also available at the Pennsylvania Office of Open Records website at openrecords@state.pa.us.
2. Each request shall be addressed to the Township's Open Records Officer. The request form shall include the Requester's contact information, the date of the request and shall identify or describe the Records sought with sufficient specificity to enable the Township to ascertain which Records are being requested.
3. Creation of a Public Record. When responding to a request for access, the Township shall not be required to create a Public Record that does not currently exist nor shall it be required 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. Record of Request. A file shall be maintained for Right to Know Requests. Such file shall contain the original request, a copy of the response, a record of communications with the Requester and a copy of other communications.

V. **RESPONSE TO WRITTEN REQUESTS**

1. Redaction. If the Township determines that a Public Record contains information that is subject to access, as well as information that is not subject to access, the Township's response shall be to grant access to the information that is subject to access, and deny access to the information that is not subject to access.

If the information that is not subject to access is an integral part of the Public Record and cannot be separated, the Township may redact from the Public Record the information that is not subject to access.

2. Township's Response to Written Requests for Access. 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, whether the Township has possession of the same and whether the public record is otherwise exempt and/or protected pursuant to the *Right-to-Know Law*. The Township shall respond as promptly as possible under the circumstances existing at the time of the request, but shall not exceed five (5) business days from the date the written request is received by the Open Records Officer unless an extension is appropriate pursuant to the *Right-to-Know Law*. If the Township fails to send the response within five (5) days of receipt of the written request for access, the written request for access shall be deemed denied unless an extension is otherwise established.
3. Extension of Time. The Open Records Officer shall determine if the requested Record requires redaction, if the Record is stored remotely, if a timely response cannot be made due to bona fide and specified staffing limitations, whether a legal review is necessary, whether the request has failed to comply with the Township's policies and applicable fees, and whether the extent or nature of the request precludes a response within the required time period. If the Open Records Officer determines that any one of the above circumstances applies, the Officer shall send written notice to the Requester stating that the request for access is being reviewed, the reason for the review and a reasonable date that a response can be expected, not to exceed thirty (30) days from such notice. If the response is expected to take in excess of thirty (30) days, the request shall be deemed denied unless otherwise agreed to by the Requester.
4. Denial of Request. The Open Records Officer may deny a request for access to or copies of a Record for any reason set forth within the Pennsylvania *Right-to-Know Law*.

The Open Records Officer may deny a request for access to or copies of a Record if the Requester has made repeated requests for that same Record and the repeated requests have placed an unreasonable burden on the Township in accordance with the Pennsylvania *Right-to-Know Law*.

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.

If the Open Records Officer denies a request for access to or copies of a Record, whether in whole or in part, the written denial shall include the following:

- A. Description of the Record requested;
 - B. Specific reasons for denial;
 - C. 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; and
 - E. Procedure for the Requester to appeal the denial of access or copies.
5. 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 *Right-to-Know Law*. Documents that are exempt include, but are not limited to 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*; the full exemption list of Section 708 of the *Right-to-Know Law* governs and shall control any and all requests):
- Internal pre-decisional deliberations of administrators, employees and Board members.
 - 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.
 - Speech and debate privilege – applicable to legislative functions.
 - All other applicable privileges.

- 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.
 - 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.
 - 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 demotion).
 - 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, ordinances or administrative regulations.
- Trade secrets or other confidential proprietary information.
- Personal notes and working papers of an individual, including message slips.

VI. FILING OF APPEAL

1. Authorization. If a written request for access to a Record is denied or deemed denied, the Requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under the *Right-to-Know Law* within fifteen (15)

business days of the mailing date of the Township's response, or within fifteen (15) business days of a deemed denial. The appeal shall state the grounds upon which the Requester asserts that the Record is a Public Record, legislative Record, or financial Record, and shall address any grounds stated by the Township for delaying or denying the request.

VII. FEES

1. Fees. The following fees shall be due and payable by any person or entity for access to Public Records:
 - No fees for viewing Public Records that the Township determines are on-site and readily available during normal business hours.
 - Postage fee (actual) on any mailing made in response to a request.
 - A \$1.00 fee if a certification is being requested of the Records being produced.
 - Paper copies shall be \$.25 per single-sided page.
 - Facsimile/Microfiche/CD/Other Media shall be actual cost.
 - Specialized documents (for example, but not limited to, blue prints, color copies, plotter documents) shall be actual cost.
 - If a request is made for a copy of any Public Record that cannot be reasonably duplicated on the facilities available at the offices of the Township, either due to the physical size or shape of the Record, or to the volume of the Records being requested, the Township may have the requested Records duplicated at a commercial copying service or similar location, and the person or entity requesting the Record shall be responsible for the amount charged by such outside source.
 - Payment is due at the time of delivery of the copies if the costs are expected not to exceed \$100.00. If the Township expects that the fees of the copies being requested shall exceed \$100.00 then the Township shall notify the Requester that the copies will not be made until the cost of the copies, as estimated by the Township, is paid in advance. Either a supplemental bill or a refund shall be made if actual copying fees are different than the Township's estimate.
2. Waiver of Fees. A Supervisor may waive the aforementioned fees when he/she, at his/her discretion, deems it is in the public interest to do so.

This Administrative Policy is hereby implemented this 12th day of July, A.D., 2011, by the Polk Township Board of Supervisors.

POLK TOWNSHIP SUPERVISORS

By: / John Lee /
Name: John Lee
Title: Supervisor/Chairman

/ Neal Davis /
Name: Neal Davis
Title: Supervisor

/ James J. Manno, Jr. /
Name: James J. Manno, Jr.
Title: Supervisor

ATTEST: / Diane Davis /
Diane Davis, Secretary