

OPEN RECORDS POLICY

The purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. 66.1 et. Seq., as amended, to provide access to public records of Hanover Township, Northampton County, to preserve the integrity of the Township records, and to minimize the financial impact to the residents of the 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 the Township Secretary when public records are examined and inspected and to charge reasonable fees for duplication of public records in accordance with the following guidelines:

Requests

Public records will be available for inspection and copying at the Township Municipal Building during normal business hours, Monday through Friday, 8:00 A.M. to 4:00 P.M., with the exception of holidays.

Requests shall be in writing and directed to the Township Secretary at the Township Municipal Building, 3630 Jacksonville Road, Bethlehem, Pennsylvania 18017. Written requests shall be on a form provided by the Township and shall include the date of the request, the name and address of the requester, and a clear description of the records sought.

The request may be in person, by mail or facsimile. The request must be specific enough for the Township to determine what records are needed.

Fees

Paper copies (including .pdf files) will be \$0.25 per page side. If mailing of the information is requested, the cost of postage will be added to the fees. If a CD is requested, it will be provided by the Township, if possible, at the cost of \$5.00 per CD. A new CD will be necessary each time records are provided. Fax copies will be available at the cost of \$0.50 per page. If "True and Correct Certification" is requested, an additional charge of \$2.00 will be added. The Township will require prepayment if the total fees are estimated to exceed \$100.00.

Response

The Township Secretary shall review all written requests for access to public records. As soon as possible, but no later than five business days after receiving a written request to access public records, the Township Secretary shall respond to all such requests.

A request is considered denied if the requester does not receive notice of an extension to fulfill the request within five business days after receiving the written request. The Township may take an additional thirty days to fulfill the request under the following conditions:

1. If it must remove portions of the record that are not public;
2. Retrieve records not stored on site;
3. Obtain legal review of the records requested;
4. It is experiencing a bona fide staffing shortage;
5. The requester has not complied with the municipal policies for record access;
6. The requester has not paid the requested fees.

If additional days are needed, the Township must notify the requester of the delay in writing within the first five business days after receiving the written request for the records.

The record shall be provided to the requester in the medium requested, if the record exists in that medium. Otherwise, the record shall be provided in the medium in which it exists. If a record is only kept in the electronic form, the Township must make it available in paper upon request. The Township is not required to create a record that does not exist or put a document into a format that does not exist. The Township may remove portions of a document that are not public information. If a portion of the document is removed, a written denial must be given for the removed portions of the document.

Denial:

The Township may deny a request if the document is not a public document. The Township must give denials in writing, even if only a portion of the document is denied or removed. The denial must include the following:

1. Legal description of the record;
2. Specific reasons for the denial, including legal citations and, if applicable, reasons from a legal opinion of why record is not public;
3. Typed or printed name, title, business address, business telephone number and signature of Township official denying the request.
4. Date of denial;
5. The appeals process.

Appeals Process

If a written request is denied, the requester may file exceptions with the Board of Supervisors within 14 business days of the mailing date of the Township's denial. The exceptions shall state the date of the original request, the records requested, grounds on which the requester asserts that the record is a public record and shall address any grounds stated by the Township for denying the request.

The Board of Supervisors shall make a "final determination" on the exceptions within 30 days of the mailing date of the exceptions. The Board of Supervisors may hold a hearing on the issue during the 30 days. If the Board determines that the denial was correct, it must provide a written explanation to the requester.

Within thirty days of the mailing date of a final determination, the requester may file a petition for review with the Court of Common Pleas. The Township must be served notice of the petition for review and given an opportunity to respond.

The Court of Common Pleas shall issue decision containing findings of fact and conclusions of law. If the Court reverses the Township's denial, the record requested must be provided. If the Court also finds that the Township "willfully or with wanton disregard" deprived the requester of access to a public record or the Township's decision was not based on a reasonable interpretation of the law, the Court may award the requester reasonable costs and attorneys' fees. If the Court affirms the Township's decision and finds that the challenge was frivolous, the Court may award the Township reasonable court costs and attorneys' fees.

Penalties

A Township or Township Official who violates the act with intention and purpose of violating the act commits a summary offense subject to prosecution by the District Attorney and, if convicted, is subject to a maximum fine of \$300.00 plus court costs. A Township or Township Official who does not promptly comply with a court order to produce public records will be subject to a maximum civil penalty of \$300.00 per day until the public records are released. The Township, Township Officials and Township employees are immune from any other damages or penalties for failing to comply with the act.

Definitions

A. **Public Record**: Any account, voucher or contract dealing with the receipt of 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, except those reports filed the Township pertaining to safety and health in industrial plants; 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 Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, excepting therefrom however the record of any conviction for any criminal act.

B. **Record**: Any document maintained by the Township, in any form, whether public or not.

C. **Requester**: A person who is a resident of the Commonwealth and requests a record pursuant to this act.

D. **Response**: Access to a record or the Township's written notice granting, denying or partially denying access to a record.

EFFECTIVE DATE:

This policy shall take effect December 26, 2002.

RECORD REQUEST REVIEW/DUPLICATION REQUEST

Please print legibly

DATE OF REQUEST: _____

REQUESTER'S NAME: _____

REQUESTER'S ADDRESS: _____

REQUESTER'S PHONE NUMBER: _____

REQUESTERS EMAIL ADDRESS: _____

I request review_____ duplication_____ (check applicable) of the following records.
Important: You must identify or describe the records with sufficient specificity to enable the Secretary to determine which records are being requested. Use additional sheets if necessary.

I certify that I am a resident of the Commonwealth of Pennsylvania.

SIGNATURE (When request is fulfilled)

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

Stacy C. Milo
Secretary
Hanover Township – Northampton County
3630 Jacksonville Road
Bethlehem, PA 18017-9302

PUBLIC RECORD REVIEW/DUPLICATION REQUEST

To be completed by:

Request No.:

Date Received:

Action Taken

Approved

Date of approval:

Denied

Date notice mailed:

Additional Review

Date notice mailed:

DENIAL OF REQUEST TO REVIEW AND/OR DUPLICATE

DATE OF DENIAL:

REQUESTER'S NAME:

REQUESTER'S ADDRESS:

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

Request No.:

Date of Request:

Dear Mr./Mrs./Ms. _____

Please be advised that your request to review/duplicate (strike out inappropriate request) 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 either:

1. Within fifteen (15) days of the notice of denial or deemed denial, file exceptions with the **Board of Supervisors** in accordance with the open records policy.

If you file exceptions, the Township has thirty (30) days in which to respond to your exceptions, unless extended by the parties. The **Board of Supervisors** may decide to conduct a hearing within that time to assist in the making of the decision.

-OR-

2. Within thirty (30) days of the notice of denial, or within thirty (30) days of the **Board of Supervisor's** final decision (in the event you have filed exceptions), file a petition for review in the **Northampton County Court of Common Pleas** or bring an action in the local **District Magistrate's Office (03-1-04)**.

Adopted December 17, 2002

Amended February 12, 2008