



**LOWER POTTS GROVE TOWNSHIP
OPEN RECORDS POLICY**

RESOLUTION NO. 994

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF
LOWER POTTS GROVE TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA
AMENDING RIGHT TO KNOW POLICY, APPOINTING OPEN RECORDS OFFICERS
AND ELIMINATING THE POSITION OF ALTERNATE OPEN RECORDS OFFICER**

WHEREAS, the Commonwealth of Pennsylvania adopted an amended Right-to-Know Law effective January 1, 2009 (the "Law"); and

WHEREAS, on November 10, 2008, by Resolution No. 792, the Board of Commissioners of Lower Pottsgrove Township approved and adopted a Right-to-Know Policy for Lower Pottsgrove Township, Montgomery County, Pennsylvania (the "Township") to comply with Pennsylvania's amended Right-to-Know Law and to provide access to public records of the Township to preserve the integrity of the Township's records, and to minimize the financial impact regarding the resources utilized in the receipt of and processing of public record requests and the retrieval and copying of public records.

WHEREAS, pursuant to Resolution 792, the Board of Commissioners appointed Rodney P. Hawthorne, Township Manager, as Open Records Officer for the Township and Alyson Elliott, Assistant Township Manager, as Alternate Open Records Officer for the Township in the event that Rodney P. Hawthorne is unavailable to timely respond to a records request made in accordance with the Right-to-Know Law and this Right-to-Know Policy and Michael Shade, Chief of Police of the Lower Pottsgrove Township Police Department ("Police Department"), as Open Records Officer for the Police Department.

WHEREAS, on June 20, 2013, by Resolution No. 980, the Board of Commissioners appointed the Township Manager as Open Records Officer for the Township and the Assistant Township Manager as Alternate Open Records Officer for the Township in the event that the Manager is unavailable to timely respond to a records request made in accordance with the Right-to-Know Law and this Right-to-Know Policy and the Chief of Police as Open Records Officer for the Police Department.

WHEREAS, it is the intent and desire of the Board of Commissioners to amend the Right to Know Policy and to appoint an Open Records Officer, eliminate the Alternate Open Records Officer position, and appoint an Open Records Officer for the Police Department, as set forth herein.

NOW THEREFORE, IT IS HEREBY RESOLVED that:

1. The following Right-to-Know Policy is hereby adopted:

LOWER POTTS GROVE TOWNSHIP'S POLICY ADOPTING
THE RIGHT-TO-KNOW-LAW, as amended

ACCESS TO PUBLIC RECORDS

The purpose of this Policy is to assure compliance with the Pennsylvania Right-to-Know Law, Act 3 of 2008, as amended, and as may be amended from time to time, (hereinafter "Law") to provide access to public records of Lower Pottsgrove Township, Montgomery County, Pennsylvania (hereinafter the "Township"), to preserve the integrity of the Township's records, and to minimize the financial impact regarding the resources utilized in the receipt of and processing of public record requests and the retrieval and copying of public records. "Township" is defined to include all departments of the Township, including the Police Department.

A. Open Records Officer

1. The Township shall designate an official or employee to act as the Township's Open Records Officer who shall respond to all requests for documents pursuant to the Law, except for documents pertaining to the Police Department. The Township shall designate an official or employee of the Police Department, who shall respond to all requests for documents pertaining to the Police Department. All references herein to the Open Records Officer shall include the Open Records Officer for the Township Police Department.

2. Functions of the Open Records Officer

a. The Open Records Officer shall receive requests submitted to the Township, direct requests to other appropriate persons within the Township or to appropriate persons in another agency, track the Township's progress in responding to requests, and issue interim and final responses in accordance with the Law.

b. Upon receiving a written request for a public record, the Open Records Officer shall:

(1) Note the date of receipt on the written request by the Open Records Officer.

(2) Compute the day on which the five-day response period will expire and make a notation of that date on the written request.

(3) Maintain an electronic or paper copy of a written request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

B. Requests for Access to Records

1. Request. All requests for access to a record shall be in writing. The Township has adopted the uniform form developed by the Office of Open Records, which shall be completed by a requester for access to a record. The Township reserves the right to amend the uniform form from time to time as deemed necessary.

2. A written request shall:
 - a. be addressed to the Open Records Officer;
 - b. identify or describe the records sought with sufficient specificity to enable the Township to ascertain which records are being requested;
 - c. include the name and address of the requester to which the Township should address its response.

3. A written request for access to records may be submitted in person, by mail, by email or by facsimile.

4. In the event that the written request is directed to and/or initially received by an employee of the Township other than the Open Records Officer, that employee shall forward said request to the Open Records Officer.

C. Township Response to Request for Access to Records

1. The Open Records Officer shall respond to the written request within five (5) business days of receipt by the Open Records Officer.

2. A denial of a request shall be in writing and shall include all information required by the Law.

3. In the event that the Open Records Officer fails to respond to a request within five (5) business days of receipt by the Open Records Officer, the request will be deemed denied, unless the Open Records Officer obtained a thirty (30) day extension.

4. Upon receipt of a written request for access, the Open Records Officer shall determine if any of the following applies:

- a. the request for access requires redaction of a record;
- b. the request for access requires the retrieval of a record stored in a remote location;
- c. a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitation;
- d. a legal review is necessary to determine whether the record is a record subject to access under this act;
- e. the requester has not complied with the agency's policies regarding access to records;
- f. the requester refuses to pay necessary fees; or
- g. the extent or nature of the request precludes a response within the required time period; or
- h. such other reason(s) for a delayed response as may be required by the law or judicial decision

5. Upon a determination that one of the factors listed above applies, the Open Records Officer shall send written notice to the requester within five (5) business days of receipt of the request for access.

a. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of 30 days, following the five (5) business days allowed for in the Law, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice.

b. If the requester agrees to an extension, the request shall be deemed denied on the day following the date specified in the notice if the Township has not provided a response by that date.

D. Fees

1. The fees charged by the Township for photocopying, certifying copies, postage, and other services relating to the reproduction of public records in accordance with the Right to Know Law shall be in amounts as designated by the Office of Open Records.

2. Waiver – The Township may waive the fees for duplication of a record, including but not limited to when: (1) the requester duplicates the record; or (2) the Township deems it is in the public interest to do so.

3. Prepayment – The Township may require a requester to prepay an estimate of the fees if the fees required to fulfill the request are expected to exceed \$100.00.

E. Appeal of Denial to the Office of Open Records

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 as set forth in the Law.

1. All prior policies inconsistent with the foregoing Right-to-Know Policy, as amended, are hereby rescinded.

2. The foregoing Right-to-Know Policy shall be effective immediately.

3. Edward C. Wagner, the Township Manager, is hereby appointed to act as Open Records Officer for all requests from the Township other than the Police Department. Said appointment shall be effective immediately.

4. Michael A. Foltz, the Chief of Police, is hereby appointed to act as Open Records Officer for the Lower Pottsgrove Township Police Department. Said appointment shall

be effective immediately.

ADOPTED and RESOLVED this 17th day of November, 2013.

LOWER POTTSGROVE TOWNSHIP
BOARD OF COMMISSIONERS

BY: 
Jonathan H. Spadt, President

ATTEST: 
Michele Cappelletti, Secretary