

**RESOLUTION No. 2008- 91**

**A RESOLUTION OF THE TOWNSHIP OF MIDDLETOWN, DELAWARE COUNTY,  
PENNSYLVANIA, ESTABLISHING POLICIES TO COMPLY WITH THE  
REQUIREMENTS OF THE PENNSYLVANIA RIGHT-TO-KNOW LAW, AS  
AMENDED IN 2008**

**WHEREAS**, Act 03 of 2008 (the “Act”) adopted by the State’s Legislature, effective January 1, 2009, recommends that the Township establish written policies necessary to provide for access to public records of the Township of Middletown consistent with the Act.

**NOW, THEREFORE, BE IT RESOLVED**, by the Middletown Township Council that the following policy is hereby adopted:

**MIDDLETOWN TOWNSHIP – POLICY FOR ACCESS TO PUBLIC RECORDS**

**SECTION 1.** The Township Manager is hereby appointed to be the Right to Know Officer of Middletown Township, effective immediately, to serve at the pleasure of Council. All requests for access to Township public records shall be directed to the Right to Know Officer, Middletown Township, 27 North Pennell Road, P.O. Box 157, Lima, Delaware County, Pennsylvania 19037-0157 (Telephone: 610-565-2700; Facsimile: 610-566-3640).

The Right to Know Officer shall:

- (A) Receive requests submitted to the Township, direct requests to other appropriate persons within the Township or to appropriate persons in other agencies, track the Township’s progress in responding to requests and issue interim and final responses under the Act.
- (B) Upon receiving a request for a public record:
  - (i) Note the date of receipt on the written request.
  - (ii) Compute the day on which the five-day period will expire and make a notation of that date on the written request.
  - (iii) Maintain an electronic or paper copy of a written request, including all documents submitted with the 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.
  - (iv) Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester and a copy of other communications

- (C) The Right to Know Officer may designate certain employee(s) to process public records requests.

**SECTION 2.** All requests for Township public records under this policy shall be specific in identifying and describing each and every 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 the public record.

- (A) Middletown Township may fulfill verbal, written, or anonymous verbal or written requests for access to records under this policy.
- (B) All written requests for public records shall be submitted on the Pennsylvania Office of Open Records Standard Right-to-Know Request Form and include the date of the request, requestor's name, address, telephone number, signature of the requestor, and, if duplication is required, appropriate payment.

**SECTION 3.** When a request is received for access to public records, the Right to Know Officer shall make a determination within five (5) business days of receipt of the request, to grant or deny the request, or to partially grant and partially deny the request. Alternatively, the Right to Know Officer may decide that additional time is required if, after receiving a request for access to public records, the Right to Know Officer determines any of the following circumstances exist:

- (A) The request for access requires redaction of a public record;
- (B) The request for access requires 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 staff limitations;
- (D) A legal review of the request is necessary to determine whether the record is a public record subject to access under the Act;
- (E) The person or entity requesting access to the public record has not complied with the Township's policies regarding access to public records;  
or
- (F) The person requesting access to the record refuses to pay applicable fees as contained herein.

The person or entity requesting access to the public record shall be informed in writing as to the specific reason that their request is being reviewed within the original five (5) business day period. The notice shall include a statement notifying the requestor that the request is being reviewed, the reason for review, a reasonable date that a response is expected to be

provided and an estimate of applicable fees owed when the record becomes available. The review must be completed, and a final determination made, within thirty (30) days following the date the request was made. If the date a response is expected to be provided is in excess of 30 days, the request for access shall be deemed denied unless the requestor has agreed in writing to an extension to the date specified in the notice. If the requestor agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice where the agency has not provided a response by that date.

**SECTION 4.** If a request for access to public records is denied, the person or entity requesting the information shall be notified in writing of the Right to Know Officer's decision within the applicable five (5) business day or thirty (30) business day period. Denials must be in writing, accompanied by a description of the record, the reason for denial including citation to the legal authority and contact information for the Township's Right to Know Officer, date of response and procedures for appeal. The denial must be signed by the Right to Know Officer. Appeals from a denial may be made within fifteen (15) days to the Pennsylvania Office of Open Records, Commonwealth Keystone Building, 400 North Street, Plaza Level, Harrisburg, PA 17120-0225 (phone: 717-346-9903).

**SECTION 5.** The Township shall charge copying fees in accordance with the rates approved by the Pennsylvania Office of Open Records.

**SECTION 6.** The Township shall use and accept the forms promulgated by the Pennsylvania Office of Open Records.

**SECTION 7.** The Right to Know Officer is hereby directed to post the following information in a prominent location to which the public has access in the Township Administrative Building and of the Township's website:

- (A) Identity of and contact information for the Right to Know Officer.
- (B) Contact information for the Pennsylvania Office of Open Records or other applicable appeals officer.
- (C) The identification of the forms which may be used to file a request and where such forms may be obtained.
- (D) The Township's regulations, policies and procedures.

**SECTION 8.** If the estimated cost of duplication of a public record is expected to exceed One Hundred Dollars (\$100.00), the Township may require the person or entity requesting the record to prepay the estimated fees authorized by this policy, prior to providing access to the public record. Access to the records requested shall be postponed until prepayment is received.

2009. **SECTION 9.** Resolution No. 2002-128 is hereby repealed effective January, 01,

**RESOLVED AND DULY ADOPTED** this 8 th day of December 2008, by the  
Middletown Township Council, Delaware County, Pennsylvania, in lawful session duly  
assembled.

SIGNED:

  
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SCOTT D. GALLOWAY  
COUNCIL CHAIR

ATTEST:

  
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W. BRUCE CLARK  
TOWNSHIP MANAGER