

## RESOLUTION NO. 2017-59

A RESOLUTION OF THE BOARD OF SUPERVISORS OF CRANBERRY TOWNSHIP, COUNTY OF BUTLER, COMMONWEALTH OF PENNSYLVANIA, TO ASSURE COMPLIANCE WITH **THE RIGHT-TO-KNOW LAW** REGARDING PUBLIC RECORDS AND ACCESS TO PUBLIC RECORDS, TO PRESERVE THE INTEGRITY OF THE TOWNSHIP FILES AND TO MINIMIZE THE FINANCIAL IMPACT TO THE TAXPAYERS OF THE TOWNSHIP IN THE REQUEST AND RETRIEVAL OF PUBLIC RECORDS.

**WHEREAS**, the purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. § 67.101 *et. seq.*, as amended, to provide access to public records of Cranberry Township, to preserve the integrity of the Township's records, and to minimize the financial impact to the taxpayers of the Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records; and

**WHEREAS**, this Resolution replaces and rescinds all previously adopted Resolutions pertaining to the Right to Know Law.

**THEREFORE, BE IT RESOLVED**, that the Board of Supervisors designates the Township Manager as responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following:

### **I. DEFINITIONS**

Specific definitions apply when reviewing this policy. If a term is not defined herein, refer to the Right-to-Know Act and then to the common ordinary dictionary meaning of the term.

**Certified copy** – a duplicate of an original (official) document, certified as an exact reproduction by the officer responsible for issuing or keeping the original.

**Financial record** – any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the salary or other payments or expenses paid to an officer or employee, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.

**Public record** – a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania’s Right-to-Know Law or under other federal or state law or regulation, or judicial decree or order.

**Record** – information, regardless of physical form or characteristics, that documents a Township transaction or activity and is created, received or retained pursuant to law or in connection with a Township transaction, business or activity, including: a document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and a data-processed or image-processed document.

**Response** –The Township’s written notice to a requester granting, denying, partially granting and partially denying access to the record, or invoking a thirty (30) day extension.

**Requester** – a legal resident of the United States, or an agency, who requests access to a record.

**Trade secret**- information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that:

- Derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

**Confidential proprietary information**- Commercial or financial information received by an Agency:

- Which is privileged or confidential; and
- Disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.

**II. OPEN RECORDS OFFICER/DUTIES OF OPEN RECORDS OFFICER:**

The Board of Supervisors resolves that the Township Manager is the Open Records Officer or “ORO”, and he or she may designate person or persons responsible to carry out the responsibilities of responding to requests as may be prudent, efficient and necessary to the timely compliance with the Act. Specifically, the Township Manager designates the Manager of Police Administration as his or her designee to respond to Open Records Requests concerning police records. Designees are empowered to respond to requests, sign affidavits related to the responses, prepare record certifications, and testify in all administrative and judicial proceedings related to the requests.

The Open Records Officer and all designees shall be responsible to:

- a. Receive written requests for access to records submitted to the Township.
- b. Review and respond to written requests in accordance with law and Township policy.
- c. Collaborate with other appropriate staff or agency to respond to requests.
- d. Provide certified copies upon request provided fees are paid in accordance with fee schedule.
- e. Oversee the Township’s progress in responding to requests.
- f. Issue interim and final responses to submitted requests.
- g. Maintain a log of all record requests and their disposition.
- h. Provide periodic training on the Right-to-Know Law.
- i. Issue internal guidance in compliance with this resolution and the law.

### **III. RECORD REQUESTS**

All record requests shall be completed on the form provided by the Township, available at the Customer Service desk or on the Township Website. Alternatively, requesters may use the most current form provided by the Commonwealth of Pennsylvania Office of Open Records. Requests will not be accepted if not in compliance with this paragraph. If requests are submitted in unacceptable format a correct form will be provided, and response time frames will be calculated when the correct form is submitted.

**The Township has designated as Public Records the following routine record requests:**

- a. Residential property surveys**
- b. Reportable vehicle crash reports**

**These records are exempt from the processes herein and may be requested in person at customer service, the police department or by email. Applicable fees apply.**

**Requests for new zoning verification letters are not requests for public records as the letters are a service provided by the Township and are created by the Township at the time of the request. The processes herein do not apply to the request for a new zoning verification letter, e.g. no RTK form is required. Requests can be made by email or mail or in person. Applicable fees apply.**

General requests for information, questions and inquiries that are not requests for public records, as defined by the act, will be denied. You may be redirected to another Township resource for follow up.

The Township adopted the Schedules and Procedures for the Retention, Disposition and Disposal of Records as set forth in The Municipal Records Act of January 18, 1968 (P.L. 961, No. 428). This means that records will be disposed of in accordance with adopted procedures.

**A. When a Request is Submitted**

Upon receiving a request for access to a record, the Open Records Officer or designee shall:

1. Document the date of receipt on the written request.
2. Requests received by the Open Records Officer or his/her designee will be marked as received on the next business day following receipt of the request.
3. Compute and note on the written request, if applicable, that a thirty (30) calendar day extension is invoked (following the first five (5) business days), and the date in which a response is required.
4. Determine if the requested record is a public record and if the Township has possession, custody or control of that record.
5. Prepare a written response to each record request: 1) granting/partially granting (See Paragraph E below) or, denying/partially denying (See Paragraph H below); 2) produce documents for granted requests; 3) arrange for record inspections, if requested, within five (5) business days from the date of receipt of the written request, unless an extension is invoked; 4) redact documents as necessary.
6. Calculate fees owed for document requests granted, communicate said fees to the requester; request an invoice from Finance.
7. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.
8. Maintain written requests that have been denied for thirty (30) days, or if an appeal is filed, until a final determination is issued.

**B. Economies of Response**

Where possible the Open Records Officer is responsible for minimizing the financial impact to the Township and the Requester of the resources utilized in the receipt, processing and copying of public records.

**C. Hours for Requests**

Requesters may access and procure copies of the public records of the Township during the regular business hours of the administration offices. Requests received by the Open Records Officer or his/her designee will be marked as received on the next business day following receipt of the request.

**D. Americans With Disabilities**

Information and access shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient notice. Contact the Human Resource Department for accessible formats.

**E. Granting Requests for Public Records**

If the Open Records Officer determines that the request will be granted, the response shall inform the requestor which requests are granted and (1) advise the requester of the fees and payment for copying and mailing; or (2) provide digital or electronic format or direct the requester to a public site, at no cost, if possible; or (3) include the regular business hours of the administration office for inspection.

The initial response shall include a copy of the invoice with notice that payment of fees is required in a specified amount (invoice), and the medium in which the records will be provided.

Requests may be partially granted (and partially denied).

In instances where the Township does not possess the requested record(s), the request may be granted where the request describes a public record.

The presence of an Open Records Officer or his or her designee is required when public records are examined.

A public record shall be provided to the requestor in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, the Township is not required to permit use or access of its computer systems.

The Open Records Officer may respond to a records request by notifying the requestor that the record is available through publicly accessible electronic means or that the Township shall provide in a digital or electronic format. If the requester, within thirty (30) days following receipt of the Township's notice, submits a written request to have the record converted to paper, the Township shall provide access in printed form within five (5) days of receipt of the request for conversion to paper.

If the Open Records Officer determines that a public record contains information both subject to and not subject to access, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer shall redact from the record the information that is not subject to access. The Open Records Officer shall not deny access to a record if information can be redacted.

If the Open Records Officer responds to a requester that a copy of the requested record(s) is/are available at the administration office and the requester does not retrieve the record within sixty (60) days of the Township's response, the Township shall dispose of the copy and retain any fees paid to date.

#### **F. Extension of Time**

If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in the law, written notice shall be sent within five (5) business days of receipt of

request. An extension for one of the listed reasons may be up to thirty (30) calendar days following the first five business days, and does not require the consent of the requester. If the response is not given by the specified date, it shall be deemed denied on the day following that date.

Requests for extensions shall be limited to situations where:

1. The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
2. The record requires retrieval from a remote location;
3. A timely response cannot be accomplished due to bona fide and specified staffing limitations;
4. A legal review is necessary to determine whether the record requested is subject to the Act, *e.g.* whether the request is for a public record, whether redaction may be appropriate, whether a trade secret, or confidential or proprietary information is involved, which involves a third party's interests;
5. The extent or nature of the request precludes a response within the required time;
6. The requester has not complied with the Township's policies regarding access or have refused to pay fees.

#### **G. Notification to Third Parties**

When the Township receives a request for a record created by a third party, the Open Records Officer shall notify the requester and the third party that trade secrets, and/or confidential proprietary information may be implicated by the request. Generally, a thirty (30) day extension will be invoked to permit a legal review of the records at issue. The third party has five (5) business days from receipt of the notice to provide input into the release of the requested record(s). The Open Records Officer shall notify the requester and the third party within ten (10) business days of the notice

to the third party that the request is granted, denied, partially granted or partially denied.

#### **H. Denying Requests of Public Records**

If the Open Records Officer denies a request for access to a public record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request or within the period of any extension, if applicable.

Requests may be partially denied (or partially granted).

Requesters may appeal from a denial of a request. If a written request for access to a record, other than a criminal investigative record, is denied or deemed denied, the requester may file an appeal with the state's Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial. If a written request for access to a criminal investigative record is denied or deemed denied, the requestor may file an appeal with the Butler County District Attorney's Office within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.

The Open Records Officer may deny a request for access to 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.

The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable.

#### **WITHDRAWAL OF REQUESTS**

If a requester wishes to withdraw a request for any reason, the withdrawal must be submitted in writing to the Open Records Officer within the five (5) business day response period.

#### **IV. OTHER POLICIES AND REGULATIONS**

The Township may implement such other policies and regulations as may be necessary to implement this resolution and the Right to Know Law.

#### **V. EFFECTIVE DATE**

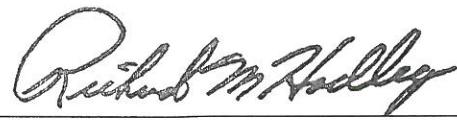
This policy shall take effect immediately.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the Board of Supervisors hereby adopts this Resolution stating the Township's Right-to-Know Policy, this 31<sup>st</sup> day of August, 2017.

CRANBERRY TOWNSHIP



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Jerry A. Andree,  
Township Manager/Secretary



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Richard M. Hadley  
Board of Supervisors