

**RESOLUTION 2008- 50**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF  
MAIDENCREEK TOWNSHIP, BERKS COUNTY,  
PENNSYLVANIA ESTABLISHING POLICIES AND  
PROCEDURES FOR ACCESS TO TOWNSHIP RECORDS**

WHEREAS, the General Assembly of the Commonwealth of Pennsylvania adopted Amendments to the Open Records Law (65 P.S. §66.1 through 66.9); and

WHEREAS, these Amendments requires Maidencreek Township (hereinafter The Township) to update and revise the practice and procedure for obtaining access to public records.

NOW, THEREFORE, The Board of Supervisors of the Township of Maidencreek, Berks County, Pennsylvania, hereby resolves and adopts the following:

**Section 1. Definitions.**

Any terms used in this Resolution that are defined in Section 102 of the Pennsylvania Right to Know Law enacted February 14, 2008, Public Law VI, Number 3 (65 P.S. §66.1 through 66.9) shall have the meanings provided for in that Section.

**Section 2. Open Records Officer**

The Township hereby creates the position of Open Records Officer. The Open Records Officer shall be appointed at the Reorganization Meeting of the Township in January each year. The Open Records Officer for 2009 shall be Diane Hollenbach. In the event that Diane Hollenbach is unavailable, the

Township hereby appoints Rita Agnetti as Assistant Open Records Officer for 2009.

**Section 3. Request Form.**

All requests for public records shall be made on specified forms promulgated by the Pennsylvania Office of Open Records unless and until the Township adopts its own Request Form. In that event, the Township shall accept requests for public records on either form.

**Section 4. Practice and Procedure for Obtaining Public Records**

A. Requests.

All requests must be in writing on a completed Request Form as described in Section 3. All requests must be submitted in person, by mail, by email or by facsimile machine and must be addressed to the Open Records Officer. The Request Form must include the name and address to which the Township should address its response. The records requested must be described in sufficient detail to enable the Township to ascertain what requested records are sought.

B. Electronic Records.

If the Township makes the requested records available through a publicly accessible electronic means, the Requestor will be directed to access the records in that format unless the Requestor subsequently notifies the Township that the Requestor is unable or unwilling to access the records in an electronic format.

C. Public Records.

Public records will be available in the form in which they are stored. The Township will not create a record that does not currently exist nor compile, maintain, format or organize a record in a manner in which the Township does not currently compile, maintain, format or organize the record.

D. Redaction of Privileged and Non-Public Information.

The Township reserves the right to redact requested records and withhold information contained within public records that are not subject to access under the Right to Know Law.

E. Response Upon Receipt of a Written Request.

The Township will respond to the public records request as required by the Pennsylvania Right to Know Law.

F. Extension of Time.

The following circumstances shall justify an extension of time for production of requested records sought from the Township:

1. The request for access requires redaction of a record in accordance with Section 706 of the Pennsylvania Right to Know Law;
2. The request for access requires retrieval of a record stored in a remote location;
3. A timely response to the request for access cannot be accomplished due to a bona fide and specified staffing limitation;
4. A legal review is necessary to determine whether a record is a record subject to access under the Pennsylvania Right to Know Law;

5. The Requestor has not complied with the Township's policies regarding access to records;

6. The Requestor refuses to pay applicable fees authorized by the Pennsylvania Right to Know Law; or

7. The extent or nature of the request precludes a response within five (5) business days.

In the event the Open Records Officer determines that an extension of time is warranted for one or more of the reasons stated above, the Open Records Officer shall notify the Requestor of the same. The Open Records Officer shall also provide an estimate of applicable fees and an expected response date, which shall not be later than thirty (30) days following the five (5) business days from receipt of the request by the Open Records Officer.

#### **Section 5. Denials.**

If a record is not provided within five (5) business days or (where applicable) within thirty (30) days following the five (5) business days from the date the Open Records Officer receives the request, the request for access of the records shall be deemed denied unless the Requestor has agreed in writing to an extension of time. In the event of an agreement for an extension of time, a request shall be deemed denied on the date following the date specified in the agreement if the Township has not provided the response by that date. If the Township affirmatively denies the request for access to the record, the Township shall do so in writing, which shall include:

1. The description of the record requested;
2. The reasons for the denial specifying where applicable, citations to authority for the denial of record;
3. The name, title, business address, business telephone and signature of the Open Records Officer on whose authority the denial is issued;
4. The date of the response; and
5. The procedure for appeal of denial of access under the Pennsylvania Right to Know Law.

#### **Section 6. Response.**

The Open Records Officer shall make a good faith effort to determine if the record requested is a public record and whether the Township has possession, custody or control of the same. The Open Records Officer shall respond to the request not later than five (5) business days from the date the written request is received by the Open Records Officer.

#### **Section 7. Appeals.**

In the event the Township denies access to a requested record, or if a request is deemed denied, Requestor may file an appeal with the Office of Open Records of the Commonwealth of Pennsylvania within fifteen (15) business days of the date of mailing of the Township's response or within fifteen (15) business days of a deemed denial. The Appeal shall state all grounds upon which the Requestor asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the agency for delaying or denying the request. The Office of Open Records shall assign an



Appeals Officer to review the denial. The Appeals Officer shall make a final determination and mail the same to the Requestor and to the Township within thirty (30) days of the receipt of the Appeal. The procedure shall be in accordance with those adopted by the Pennsylvania Office of Open Records. Further Appeals from Appeals Officer determinations shall be in accordance with the Pennsylvania Right to Know Law, Section 1301, et seq.

**Section 8. Fees.**

The Township may, by Resolution, adopt a Schedule of Fees at any time and from time to time with regard to access to records, certification of records and other applicable fees and charges assessed from time to time, including but not limited to, costs of mailing, duplication, etc. Failure to pay applicable fees shall be grounds for denial of access to records. In the event that the Township does not adopt its own fee schedule, fees shall be those specified pursuant to the Pennsylvania Office of Open Records.

**Section 9. Failure to Retrieve Records.**

In the event that records are made available for delivery at the Township's Office and a Requestor fails to retrieve the records within sixty (60) days of the Township's response, the Township may dispose of all copies which have not been retrieved and retain any fees paid to date.

**Section 10. Amendment.**

The practice and procedures stated in this Resolution may be amended at any time and from time to time by Resolution adopted by the Board of Supervisors of the Township. To the extent any practice or procedure is

modified, the practice and procedure in effect at the time a request for records is made shall be the regulation applicable to that request. To the extent that the Township Regulations do not specify a particular practice and/or procedure, the practice and procedure with regard to requests, denials, appeals, etc. shall be as otherwise provided in the Pennsylvania Right to Know Law and any and all regulations promulgated thereunder.

RESOLVED and ADOPTED by the Board of Supervisors of Maiden Creek Township, Berks County, Pennsylvania, in lawful session duly assembled, this 11th day of December, 2008.

TOWNSHIP OF MAIDEN CREEK  
BERKS COUNTY, PENNSYLVANIA



\_\_\_\_\_  
CLAUDE BEAVER, Chairman



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ROY TIMPE, Supervisor



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JOSEPH E. RUDDEROW, III, Supervisor

Attest:



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Diane Hollenbach, Township Manager