

RESOLUTION NO. 08-01 of 2008

**RESOLUTION OF THE BOARD OF SUPERVISORS OF  
THE TOWNSHIP OF MARION, COUNTY OF BEAVER,  
COMMONWEALTH OF PENNSYLVANIA, ADOPTING A  
POLICY FOR INSPECTION AND DUPLICATION OF  
PUBLIC RECORDS IN ACCORDANCE WITH THE  
PENNSYLVANIA RIGHT TO KNOW LAW, AS AMENDED  
BY ACT 3 OF 2008.**

WHEREAS, the Township of Marion is a body corporate and politic in the County of Beaver, Commonwealth of Pennsylvania; and

WHEREAS, the Township of Marion is an agency as that term is defined in the Pennsylvania Right-to-Know Law, Act of June 21, 1957, P.L. 390, No. 212, amended by Act of June 17, 1971, P.L. 160, No. 9, amended by Act 100 of 2002, and amended by Act 3 of 2008; and

WHEREAS, Chapter 5 of the Right-to-Know Law mandates the Township adopt a policy to implement the Right-to-Know Law and to establish procedures for inspection and duplication of public records; and

WHEREAS, Chapter 13 of the Right-to-Know Law authorizes the Township to impose reasonable fees based on prevailing fees for comparable duplication services provided by local business entities; and

WHEREAS, the Township has obtained information concerning duplication fees charged by business entities serving the area; and

WHEREAS, the Board of Supervisors desires to adopt a written policy for the processing of requests for inspection and duplication of public records under the Right-to-Know Law and to establish fees.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the Township of Marion, Beaver County, Pennsylvania, as follows:

Section 1. Purpose. The purpose of this policy is to insure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. § 66.1 et seq., as amended, to provide access to the public records of the Township, to preserve the integrity of the Township's 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.

Section 2. Policy. It is the policy of the Township to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the Township. The Township designates the Township Secretary as the municipal person responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

1. The Township may designate certain employee(s) to process public records requests.
2. All requests for public records of the Township under this policy shall be specific in identifying and describing each 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 a public record in a manner in which the Township does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and on a form provided by the Township, as attached hereto entitled "Public Records Request Form" and directed to the Township Secretary at the Township Building, located at 485 Hartzell School Road, Fombell, PA 16123.

3. All requests for police and/or fire incident reports shall be submitted on a form provided by the police department and/or the fire department (the "Public Safety Departments"). In no case shall the Public Safety Departments be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Public Safety Departments do not currently compile, maintain, format or organize the public record. Release of information by the Public Safety Departments is subject to the Criminal History Information Act, 18 Pa. C.S. §§ 9101-9183, and other applicable law.

4. The designated employee shall make a good faith effort to determine whether each record requested is a public record.

5. The Township shall facilitate a reasonable response to a request for Township public records. In no case is the Township expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Township's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law, and where applicable, the Criminal History Information Act, and other applicable law.

6. The Township Secretary shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Township does not respond within five (5) business days of receipt thereof, the request is deemed denied. The Township Secretary shall respond to all such requests in a manner consistent with Act 100 of 2002, the Open Records Law.

7. The response provided by the Township shall consist of (1) approval for access to the public record; (2) review of the request by the designated employee; or (3) denial of access to the public record requested.

8. If access to a public record requested is approved, the public record shall be available for access during the regular business hours of the Township, Monday through Friday, 8:40 a.m. to 4:30 p.m., with the exception of holidays. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the Township's public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are reviewed and examined.

9. Fees for duplication of public records shall be as follows:

- (a) Photocopying: 15 cents per page;
- (b) Duplication of public electronic and/or tape records: Actual cost to the Township of duplicating the public record;
- (c) Certified copies: 20 cents per page;
- (d) Postage: Actual cost to the Township of mailing the public record;

- (e) Fire Incident Reports to the owner/occupant involved in the incident are free of charge; Fire Incident Reports to insurance companies or any other parties are ten dollars (\$10);
- (f) Police Traffic Accident Reports: Fifteen dollars (\$15);
- (g) Police Criminal Reports: Normal two-page report is ten dollars (\$10);
- (h) Police Computer Aided Dispatch (CAD) Call sheets: Five dollars (\$5) per report. The Township may, in its discretion, waive fees.

10. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100, the designated employee(s) shall obtain 100% of the expected cost in advance of fulfilling the request to avoid the unwarranted expense of the Township resources.

11. If the request is being reviewed, the notice provided by the Township shall be in writing and include the reason for the review and the expected response date, which shall be within thirty (30) days of the notice of the review. If the Township does not respond within thirty (30) days thereof the request is deemed denied. Review of the request is limited to situations where:

- (a) 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;
- (b) The record requires retrieval from a remote location;
- (c) A timely response cannot be accomplished due to staffing limitations;

- (d) A legal review is necessary to determine whether the record requested is a public record;
- (e) The requester has failed to comply with the Township's policy and procedure requirements; or
- (f) The requester refuses to pay the applicable fees.

12. If access to the record requested is denied, the notice provided by the Township shall be in writing as indicated on the form attached hereto.

13. If the request is denied or deemed denied, the requester may file exceptions with the Township within fifteen (15) business days of the mailing date of the Township's notice of denial, or within fifteen (15) days of a deemed denial. The exceptions must:

- (a) Indicate the date of the original request;
- (b) Identify and describe the record(s) requested;
- (c) State the grounds upon which the requester asserts the record(s) is a public record; and
- (d) Address any grounds stated by the Township in its notice of denial.

14. The Township shall review the exceptions and may conduct a hearing to assist in making a final determination. A final determination will be made within thirty (30) days of the mailing date of the exceptions, unless extended by the parties. If the denial is upheld, the decision shall contain a written explanation of the reason for denial and an explanation of the process for further appeal.

15. This policy shall be posted conspicuously at the Township Building on a public bulletin board.

Section 3. In the event any provisions, section, sentence, clause, or part of this Resolution shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Resolution, it being the intent of the Board of Supervisors that the remainder of the Resolution shall be and remain in full force and effect.

Section 4. This Resolution shall take effect and be in force on December 14, 2008.

DULY ADOPTED by the Board of Supervisors of the Township of Marion, County of Beaver, Pennsylvania, this 8<sup>th</sup> day of December, 2008.

ATTEST:

MARION TOWNSHIP BOARD OF SUPERVISORS  
BEAVER COUNTY, PENNSYLVANIA

Marilyn Zona  
Secretary

Thomas George D.  
Chairman

Ron E. Dumbauld

Lawrence David Owens