

## RESOLUTION 09-1

**A RESOLUTION OF DAUGHERTY TOWNSHIP, COUNTY OF BEAVER, COMMONWEALTH OF PENNSYLVANIA, TO ASSURE COMPLIANCE WITH THE RIGHT-TO-KNOW LAW, ACT 3 OF 2008, REGARDING PUBLIC RECORDS, TO APPOINT AN OPEN RECORDS OFFICER, TO PRESERVE THE INTEGRITY OF THE TOWNSHIP FILES AND TO MINIMIZE THE FINANCIAL IMPACT TO THE RESIDENTS OF THE TOWNSHIP REGARDING THE RESOURCES CONSUMED.**

**WHEREAS**, The purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, Act 3 of 2008, to provide access to public records of Daugherty Township, to appoint an Open Records Officer, 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; and

**WHEREAS**, this Resolution replaces and rescinds all previously adopted Resolutions pertaining to the Public Record Law, otherwise known as the Right-to-Know Law; and

**WHEREAS**, it is the policy of Daugherty 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.

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

1. The Township Manager may designate certain employee(s) to process public record requests, and develop and implement the administrative forms and processes to fully comply with the Right-to-Know Law.
  2. The Township Manager is responsible for minimizing, where possible, the financial impact to the Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.
  3. 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.
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4. The Open Records Officer shall make a good-faith effort to determine whether each record requested is a public record that is not exempt under section 708 of Act 3, is not exempt from being disclosed under any Federal or State law or regulation or judicial order or decree, or is not protected by a privilege.

5. The Open Records Officer shall facilitate a reasonable response to a request for Township public records. As soon as possible, but no later than five (5) business days after receiving a written request to access public records, the Open Records Officer shall respond to such requests in writing. In no case is the Township expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with Township's administrative responsibilities and consistent with the requirements of Act 3 of 2008, the Right-to-Know Law. If the Township does not respond within five (5) business days of receipt thereof, the request is deemed denied.

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

7. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Township. 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 examined and inspected.

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

(a) Photocopying: 25 cents (\$0.25) per page.

(b) Duplication of public electronic and/or tape records: actual cost to the Township of duplicating the public record.

(c) Certified copies: \$1.00 per page except as provided in the Motor Vehicle Code.

(d) Shipping/Postage: Actual cost to the Township of mailing the public record.

(e) The Township may in its discretion waive fees.

9. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain fifty percent (50%) of the expected cost in advance of fulfilling the request to avoid an unwarranted expense impact on Township resources.

10. 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 review. If the Township does not respond within thirty (30) days thereof, the request is deemed denied.

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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 as, for example, for the purpose of determining 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.

11. If access to the record requested is denied, the notice provided by the Township shall be in writing on a form entitled "Denial of Request to Review and/or Duplicate." The response shall include a reason for denial as stipulated in Act 3 of 2008, the Right-to-Know Law.

12. If the request is denied or deemed denied, the requester may file an appeal in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building 400 North Street, Plaza Level Harrisburg, PA 17120-0225. Appeals of criminal records shall be made to the District Attorney of Beaver County. All appeals shall be filed within 15 business days of the mailing date of the township's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts the records is a public record and shall address any grounds stated by the township for delaying or denying the request.

13. This policy shall be posted conspicuously at the offices of Daugherty Township.

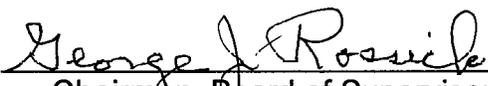
14. This policy shall take effect on January 5, 2009.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the Board of Supervisors hereby adopts this Resolution confirming the Township's Right-to-Know Policy, this 5th day of January 2009.

ATTEST:

TOWNSHIP OF DAUGHERTY

  
Township Manager/Secretary

By:   
Chairman, Board of Supervisors