

**OFFICIAL
TOWNSHIP OF HARMONY**

RESOLUTION NO. 12-21-2016

A RESOLUTION OF THE TOWNSHIP OF HARMONY,
COUNTY OF BEAVER, AND COMMONWEALTH OF
PENNSYLVANIA, CREATING A NEW OPEN
RECORDS POLICY AS AMENDED BY ACT 3 OF 2003.

WHEREAS, the Pennsylvania General Assembly enacted Act 3 of 2008 that requires local agencies to create an Open Records Policy; and,

WHEREAS, the Township of Harmony did heretofore enact an Open Records Policy on October 15, 2008; and,

WHEREAS, said Policy is in need of restatement due to changes in the law regarding Open Records.

NOW THEREFORE, be it Resolved and it is hereby Resolved that the Open Records Policy for Harmony Township shall be as follows:

Policy for Access to Public Records

The purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. § 66.1 et seq., as amended by Act 3 of 2008, to provide access to public records of Harmony Township, to preserve the integrity of Township 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.

It is the policy of the Harmony 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. Harmony Township designates the Township Secretary as responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

1. The Township Secretary is hereby appointed as the Open Records Officer and he/she may designate certain employee (s) to process public record requests.

2. The Open Records Officer 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 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 Record Review/Duplication Request" form.

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 Township administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.

6. The designated employee 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 day of receipt thereof, the request is deemed denied.

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 record requested.

8. 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 Township 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.

9. Fees for duplication of public records shall be as established by the Office of Open Records. 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 \$100.00, the designated employee(s) shall obtain fifty percent (50%) of the expected cost in advance of fulfilling the request to avoid unwarranted expense of 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 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 and 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 bonafide and specific 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.
- (g) The extent or nature of the request is such that it precludes a response within the required time.

If one of the foregoing reasons applies and the Township will not provide the information within five (5) days, the Township must send Notice of the Delay. The Notice must be sent within five (5) days of receipt of the request and must contain the following information:

- (a) A statement that the request is being reviewed;
- (b) The reason for the review;
- (c) A reasonable date that a response is expected to be provided;
- (d) An estimate of 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 entitled "Denial of Request to Review and/or Duplicate Township Records."

13. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth Office of Open Records within fifteen (15) business days of the

mailing date of the Borough's notice of denial, or within fifteen (15) days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request.

14. Within 30 days of the mailing date of the final determination of the appeals officer, the requestor or Borough may file a petition for review or other document as required by rule of court with the Court of Common Pleas of Beaver County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review under this section shall stay the release of documents until a decision is issued.

15. The Township cannot and shall not be required to produce a record that does not exist nor shall it be required to compile, maintain, format or organize a record in a manner in which the Township does not currently compile, maintain, format or organize the record.

16. The Township shall not be required to permit access to Township computers or the computer of any employee or official of the Township.

17. The Township shall provide a record in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.

18. If the Township determines that a public record contains information that is subject to access as well as information that is not subject to access, the Township must grant access to the information that is subject to disclosure and deny access to the remaining information.

19. If a record is available through publicly accessible electronic means, the Township's response to a record request may consist of notification to the requester that the record is available through such means.

20. Access to public records shall only be required during regular business hours of the Township.

21. This policy shall be posted conspicuously at the Township Municipal Building.

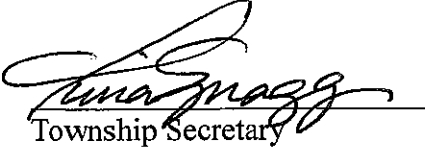
22. The within Resolution hereby repeals any Resolution or Policy conflicting with this Resolution and the same is hereby repealed including but not limited to the Policy that was adopted by the Township of Harmony on October 15, 2008.

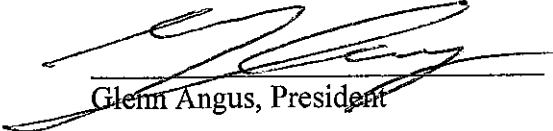
23. This policy shall take effect on January 1, 2017.

Reviewed and approved by the Harmony Township Board of Commissioners this 21st day of December, 2016.

ATTEST:

TOWNSHIP OF HARMONY


Township Secretary


Glen Angus, President