

## **BIRMINGHAM TOWNSHIP'S POLICY REGARDING REQUESTS FOR PUBLIC RECORDS FROM THE TOWNSHIP AND THE BIRMINGHAM TOWNSHIP POLICE DEPARTMENT**

General Information: Access to public records in the Township and in the Birmingham Township Police Department (the "Department") shall be governed by Pennsylvania Act 3 of 2008, approved on February 14, 2008, effective January 1, 2009, codified at 53 P.S. 66.1 *et. seq.* (the "Law").

Accessible and Inaccessible Public Records: Records in the possession of the Township or Police Department are presumed to be public, unless a record is (1) exempt under the Law, (2) privileged, (3) exempt from disclosure under State or Federal law or (4) exempt by judicial order or decree.

### Procedure for Access to Township's Public Records:

Form and Content of Request: All requests for a public record shall be submitted to the Township's open-records officer on the Office of Open Records Uniform Request Form, which will be available at the Township administrative building, online at the Township's website or by mail addressed to the Township's open-records officer as follows: Birmingham Township; Attn. Open Records Officer; 1040 West Street Road, West Chester, Pennsylvania 19382-8012. Requests may be made in person, by mail, facsimile or email. However, the requester must describe the record with enough specificity on the Form that the Township can identify the requested record.

### Procedure for Access to Township Police Department Public Records:

Form and Content of Request: All requests for a public record shall be submitted to the Police Department's open-records officer on the Office of Open Records Uniform Request Form, which will be available at the Township administrative building, online at the Township's website or by mail addressed to the Police Department's open-records officer as follows: Birmingham Township Police Department; Attn. Open Records Officer; 1040 West Street Road, West Chester, Pennsylvania 19382-8012. Requests may be made in person, by mail, facsimile or email. However, the requester must describe the record with enough specificity on the Form that the Township can identify the requested record.

### Fees for Production of Public Records.

The Township may charge a fee for the duplication and production of public records in accordance with the fee structure established by the Office of Open Records pursuant to the Law, as amended from time to time. A copy of the current fee schedule is attached hereto. The current fees for black and white copies on standard 8/12 by 11 size paper is \$0.25. The Township will charge its actual cost of copying larger or over sized records, including but not limited to

blueprints, plans, maps and similar documents. The Township will also charge its actual copying cost for color copies. The duplication fee shall be paid for by the requester in advance of receipt of the duplicates of the public records.

The Township may charge a \$1.00 fee for the cost of certifying a public record.

When the Township estimates that the fees for retrieval, inspection and duplication will exceed One Hundred (\$100.00) Dollars, the requestor shall prepay the estimated fees before the Township is obligated to respond to any request for public records.

The Township shall charge its actual costs for providing a public record via fax, microfiche or other media.

The Township shall charge the requester the actual costs of postage if the requester requests that the public records be sent.

Inspection and Duplication. Records shall be available for public access only during the Township's normal business hours of 9:00 a.m.- 3:00 p.m., Monday through Friday. The original of the requested record(s) may be inspected in the Township's administrative office, but in no event shall the original record be permitted to be removed from the Township's possession. Upon request, a duplicate copy of the record will be provided, but only in the form in which it exists. Public records maintained only electronically or in other nonpaper media will be duplicated by the Township on paper for purposes of both inspection and duplication.

Duplication Format. The Township is not required and will not create, compile or organize a public record which does not currently exist, and such records will be available only in the format maintained by the Township.

Redaction. The Township may deny access to and/or redact from the requested record before public inspection and/or duplication any part of the requested record that constitutes inaccessible information.

#### Township's and Police Department's Response Time.

a. Except as stated in paragraph (b), the Township and Police Department will have five (5) business days from the date on which the written request is received to respond to the request by providing the right of inspection and/or duplication. No record will be supplied unless the requester has paid the required fee in advance.

b. If the request implicates any of the following issues, the Township and Police Department shall have up to thirty (30) days to respond to the request by providing the right of inspection and/or duplication:

- i. The request requires redaction of a public record;
- ii. The requested record(s) is/are stored at a remote location;
- iii. Staffing limitations preclude response within five (5) business days;
- iv. Legal review is required to determine whether the requested record constitutes an accessible public record;
- v. The requester has not complied with the Township's procedure for accessing public records;
- vi. The extent or nature of the request precludes a response within five (5) business days; and/or
- vii. The requester has failed and/or refused to pay the designated fee for accessing the requested public record.

However, the Township or Police Department shall, within five (5) business days of receipt of such request, send written notice to the requester stating that the Township's or Police Department's response will be delayed, the reason for the delay, the anticipated date by which the requested public record will be supplied and an estimate of applicable fees. Unless the requester agrees to an additional extension beyond the initial thirty-day period, the request shall be deemed denied if the record is not provided within the initial thirty-day period.

#### Appeals.

Filing Exceptions With the Board. When a request for a public record is denied, the requester may file exceptions with the Pennsylvania Office of Open Records (OOR) within fifteen (15) days of the mailing of the Township's or Police Department's response, stating the basis on which the requester believes the requested records are a public record. Records not produced within the applicable time limits shall result in a deemed denial, which may also be appealed within the fifteen-day time limit. The OOR will make a determination of the exceptions within thirty (30) days of receipt of the appeal or the appeal shall be deemed denied.

Appeal to Court. The requester may appeal to the Court of Common Pleas in Chester County within thirty (30) days of the mailing of a final determination by an OOR appeals officer.