

**TOWNSHIP OF UPPER SAUCON  
LEHIGH COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2008-42**

**A RESOLUTION OF THE TOWNSHIP OF UPPER SAUCON,  
LEHIGH COUNTY, PENNSYLVANIA, ESTABLISHING NEW  
OPEN RECORDS REGULATIONS FOR PROCESSING REQUESTS  
TO EXAMINE AND/OR COPY PUBLIC RECORDS HELD OR  
MAINTAINED BY THE TOWNSHIP**

**IT IS HEREBY RESOLVED**, that the following procedures shall guide the process to obtain public records pursuant to the Right-To-Know Law:

**SECTION 1: PURPOSE**

The purpose of these regulations is to assure compliance with Act 3 of 2008, the Pennsylvania Right-To-Know Law, as amended; to provide access to public records of Upper Saucon Township, to preserve the integrity of Upper Saucon 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: PUBLIC RECORDS**

A "Public Record" is defined as any record, including financial records, of a Commonwealth or local agency that is not exempt under Section 708 of Act 3 of 2008, is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree, or is not protected by a privilege.

Records are also information, regardless of physical form or characteristics, that document a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

**SECTION 3: INSPECTION**

As soon as practical, all documents deemed public records shall be available for inspection, retrieval and duplication at the Upper Saucon Township Municipal Building during normal office hours, 8:00 AM to 4:30 PM, Monday through Friday, except for holidays, subject to the regulations set forth herein. Some public records may require time to compile and to copy but will normally be available within 5 business days of the request.

**SECTION 4: DESIGNATED OPEN RECORDS OFFICER**

The Township of Upper Saucon hereby designates the Township Manager as the Open Records Officer. The Township Manager is empowered to designate other employees to process requests for access to public records. The Township Manager shall make this designation in writing.

The Open Records Officer may be reached at:

Upper Saucon Township Municipal Building  
Attn: Township Manager  
5500 Camp Meeting Road  
Center Valley, PA 18034  
Telephone: 610-282-1171  
Fax: 610-282-3557

Upon receipt of an open records request, the Open Records Officer or his/her designee shall:

1. Note the date of receipt on the written request.
2. Compute the day on which the five-day period will expire and make a notation of that date on the written request.
3. Maintain an electronic or paper copy of a written request, including all documents submitted with the request, until the request has been fulfilled. If the request is denied, the written request shall be maintained for thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

#### **SECTION 5: OPEN RECORDS REQUEST**

Requests for access to records shall be made in writing by a legal resident of the United States and to the Township's Open Records Officer on the Commonwealth's Right-To-Know request form. A copy of the Commonwealth's Right-To-Know request form is attached hereto, made a part hereof and identified as Exhibit "A". The Township will only accept requests submitted in person, by mail, by e-mail and by facsimile. Requests submitted by any other means will not be accepted. All written requests must identify or describe the records sought with sufficient specificity to enable the Township to ascertain which records are being requested and should include the name and address to which the Township should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records, unless otherwise required by law. The Township will make a good faith effort to fulfill verbal requests for access to public records. However, if the requester wishes to pursue the relief and remedies provided for in the Right-To-Know Law (Act 3 of 2008), the request for access to records must be a written request.

#### **SECTION 6: REDACTION**

While Upper Saucon Township will disclose public records subject to access, Upper Saucon Township is not required to synthesize, compile, maintain, format, or organize records in response to a request. When a public record exists, Upper Saucon Township will separate and exclude any records which are not public records or which are otherwise excluded or exempted from the definition of public records. If information which is not subject to access is an integral part of a public record and cannot be separated, Upper Saucon Township shall redact from the public record the information which is not subject to access, and the response shall grant access only to the information which is subject to access.

**SECTION 7: RESPONSE**

The Township shall make a good faith effort to provide the requested public record(s) as promptly as possible. The Open Records Officer shall cooperate with those requesting to review and/or duplicate original Township documents while taking reasonable measures to protect Township documents from the possibility of theft, damage, and/or modification.

The Open Records Officer or his/her designee shall review all written requests for access to public records. Within 5 business days from the date the request is received, the Open Records Officer or his/her designee will 1) provide the records requested; 2) deny the request by notifying the requester in writing; or 3) send a written notice that the records cannot be provided within the 5 business days. If it is determined that the request cannot be honored within the 5 days, a notice will be issued specifying a date when the records may be expected but, in no case, will the time be longer than 30 additional days. If no response is made within the 5 business days of receipt of written request, the request shall be deemed denied.

**SECTION 8: FEES**

Fees for duplication of public records shall be as follows:

- a. Photocopying Per Page
  - i. 8 1/2" x 11"..... \$0.25
  - ii. 8 1/2" x 14"..... \$0.30
  - iii. 11" x 17"..... \$0.50
- b. Formatted Computer Disk.....\$3.00
- c. Certification of any document as a true and correct copy of a Township record.....\$1.00 per record
- d. Postage or express mail charges to respond to request for public record by forwarding records to requestor.....Actual cost incurred by Township
- e. Reproduction of specialized records/documents by third party when Township does not have necessary equipment.....Actual cost incurred by Township

Fees must be paid by cash, certified check or money order. Certified checks and money orders must be made payable to: Upper Saucon Township.

The Township shall require pre-payment if the total fees are estimated to exceed \$100.00.

**SECTION 9: DENIALS**

If Upper Saucon Township denies a written request for information, whether in whole or in part, a written response will be sent by the Open Records Officer or his/her designee to the requester with 1) a description of the record requested; 2) the specific reasons for denial, including a citation of supporting legal authority; 3) contact information for the Open Records Officer; 4) date of response; and 5) procedure to appeal the denial.

The Township shall have the right to deny a requester access to a record if any of the following situations apply:

- a. The requester fails to fully comply with the regulations and procedures set forth in this Resolution.
- b. The requester's refusal to pay applicable fees authorized by the Right-To-Know Law. The Township will not process new requests for access until the requester has paid all applicable fees relating to previous requests.
- c. The requested record/document is protected by privilege.
- d. The requested record/document is exempt from disclosure under any federal or state law, regulation or judicial order or decree.
- e. The requested record/document is a disruptive request which places an unreasonable burden on the Township. Repeated requests for the same document will be deemed disruptive.
- f. When timely access is not possible due to fire, flood or other disaster.
- g. The record is exempt from access by a requestor under the Pennsylvania Right-To-Know Law (Act 3 of 2008).
- h. Denial of the request for access is authorized by state or federal statute or case law.

#### **SECTION 10: CONTACT INFORMATION FOR APPEALS**

If a written request is denied or deemed denied, the requester may file an appeal in writing to: Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4<sup>th</sup> Floor, Harrisburg, PA 17120.

Appeals of criminal records shall be made to the District Attorney of Lehigh County, 455 W. Hamilton Street, Allentown, PA 18101.

#### **SECTION 11: APPEALS PROCESS**

The appeal 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 record is a public record and shall address any grounds stated by the Township for delaying and/or denying the request.

#### **SECTION 12: POSTING OF OPEN RECORDS REGULATIONS**

The following information shall be posted at the Township Municipal Building and on the Township's web site: 1) contact information for the Open Records Officer; 2) contact information for the Office of Open Records or other applicable appeals officer; 3) the form to be used to file a request; and 4) the regulations contained in this Resolution for processing requests to examine and/or copy public records maintained by the Township.

#### **SECTION 13: WAIVER OF COPYRIGHT PROTECTIONS**

It is hereby established as the policy and procedure of Upper Saucon Township that with respect to requests by persons for copies of any document or other material (whether in written or electronic form) submitted by an applicant in connection with any appeal or application for review or approval by the Township or any of its Boards or Commissions, any of its employees or any of its elected or appointed officials which are copyrighted, protected by copyright or subject to

copyright or copyright protection, either by statute or at common law; the submission of such materials shall constitute a full and voluntary waiver of any and all claims that the copying or reproduction of such materials pursuant to the Right-To-Know Law and for the purpose of review, criticism or comment constitutes a violation of the copyright, copyright laws or the common law relating to copyrights.

**SECTION 14: REPEAL OF INCONSISTENT RESOLUTIONS**

Any and all other resolutions or parts of resolutions in conflict herewith are hereby repealed.

**SECTION 15: SEVERABILITY**

If any sentence, clause, section, or part of this Resolution is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution. It is hereby declared as the intent of the Upper Saucon Township Board of Supervisors that this Resolution would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 16: EFFECTIVE DATE**

This Resolution shall take effect and be in force on January 1, 2009 and shall remain in effect until modified or rescinded by the Upper Saucon Township Board of Supervisors.

**DULY ADOPTED** this 23<sup>rd</sup> day of DECEMBER, 2008 by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania, in lawful session duly assembled.

UPPER SAUCON TOWNSHIP  
BOARD OF SUPERVISORS

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice-Chairman

\_\_\_\_\_  
Supervisor

ATTEST:

\_\_\_\_\_  
Supervisor

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Supervisor