

ORDINANCE NO. 986

AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AMENDING THE CODE OF ORDINANCES CHAPTER 1, ADMINISTRATION AND GOVERNMENT, PART 2 ADMINISTRATIVE GENERAL PROVISIONS, SECTION 206 BY REPEALING SECTION 206 IN ITS ENTIRETY AND REPLACING SAID SECTION WITH A NEW AND REVISED SECTION 206 PUBLIC RECORDS ACCESS POLICY.

§1-206. Public Records Access Policy.

1. Purpose

The purpose of this policy is to assure compliance with Act 3 of 2008, the Pennsylvania Right-To-Know Law, as amended; to provide access to public records of Ferguson Township, to preserve the integrity of Ferguson Township's records, and to minimize the financial impact to the residents regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

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 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.

3. Inspection

Public records are open to inspection and for duplication during normal office hours, except for holidays, subject to the regulations set forth herein.

4. Open Records Officer

The Township Manager and Chief of Police are designated as Right-to-Know Officers. The Township Manager shall fulfill the responsibilities of Right-to-Know Officer for all departments except for the Police Department which shall be fulfilled by the Chief of Police. The designated "Right-To-Know Officer" shall designate certain employee(s) to process public record requests. The Ferguson Township Manager is responsible for minimizing, where possible, the financial impact to Ferguson Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Upon receipt of a written open records request, the Ferguson Township Manager, Chief of Police 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.

5. Open Records Request

A written request for access to records may be submitted in person, by mail, by e-mail, by facsimile or provided by way of the Township's or the Commonwealth's Right-To-Know Request Form. A written request must be addressed to either the Ferguson Township Manager, Chief of Police or the Ferguson Township Right-To-Know Officer. All employees who receive a request shall immediately forward requests for records to the Township Manager, Chief of Police or designee. Regardless of the form received, no employee other than the Right-To-Know Officer or his/her designee shall determine if the request is in its proper form. A written request should 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. An anonymous request places the onus on the requestor to return to the Township office in a timely manner to pick up the response. A written request need not include any explanation of the requestor's reason for requesting, or intended use of, the records, unless otherwise required by law.

6. Redaction

While Ferguson Township will disclose public records subject to access, Ferguson Township is not required to synthesize, compile, maintain, format, or organize records in response to a request. When a public record exists, Ferguson 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, Ferguson 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.

7. Response

Within five (5) business days from the date the request is received, Ferguson Township will (1) provide the records requested; (2) deny the request by notifying the requestor in writing; or (3) send a written notice that the records cannot be provided within the five (5) business days. If it is determined that the request cannot be honored within the five (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 thirty (30) additional days. If no response is made within the five business days of receipt of written request, the request shall be deemed denied.

8. Fees

A request for copies of public records or information produced therefrom must be accompanied by payment of fees to cover the direct costs of duplication if the cost of duplication is estimated to be \$100.00 or more. Reasonable fees to cover direct costs incurred by Ferguson Township may be charged, as set by the Pennsylvania Office of Open Records.

9. Denials

If Ferguson Township denies a written request for information, whether in whole or in part, a written response will be sent by the Right-To-Know Officer to the requestor 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 Right-To-Know Officer, (4) date of response, and (5) procedure to appeal the denial.

10. Appeals

Requestors receiving a denial either in part or whole of a submitted request have the right to appeal that denial of information in writing to the Appeals Office, c/o Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120 for a review. Requestors appealing a denial of Police Department criminal investigative records have the right to appeal that denial of information in writing to the Centre County District Attorney, Centre County Courthouse, Room 404, Bellefonte, PA 16823-1488.

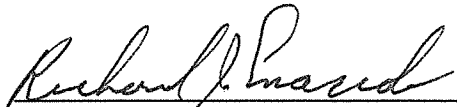
Within thirty (30) days of the mailing date of the final determination of the appeals officer, a requestor or Ferguson Township may file a petition for review as required by rule of court with the Centre County Court of Common Pleas. The decision of the court shall contain findings of fact and conclusions of law based upon evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review shall stay the release of documents until a decision is issued.

11. Repeal of Inconsistent Ordinances or Resolutions

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

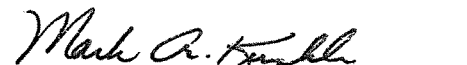
ORDAINED this 5th day of May, 2014.

FERGUSON TOWNSHIP
BOARD OF SUPERVISORS


Richard J. Mascolo, Chairman

[SEAL]

ATTEST:


Mark A. Kunkle, Secretary