

TOWNSHIP OF CHESTERFIELD

ORDINANCE 2010-13

**AN ORDINANCE TO AMEND CHAPTER 154 entitled:
“PUBLIC ACCESS TO RECORDS”**

WHEREAS, Chapter 154 of the Code of the Township of Chesterfield provides for a schedule of fees for public records, and refers the requestor of the Code entitled “Fees”; and

WHEREAS, Section 154-2(B) (1-3) establishes the photocopying costs for various public records, which costs are consistent with those set forth in the New Jersey Public Records Act, N.J.S.A. 47:1A-1.1 et seq., and

WHEREAS, the Superior Court of New Jersey, Appellate Division, in a decision issued on February 10, 2010, in the case of Smith v. Hudson County Register, et al., Docket No. A-1762-08T2, determined that reference to the to N.J.S.A. 47:1A-5(b) was misplaced, and that, instead, public entities were required to pass on the “actual costs” of said photocopies, which the Court determined “may be reasonably approximated”; and

WHEREAS, the Court also provided that those “actual costs” could consist of, e.g., paper, toner or ink, cost of acquiring self-service equipment, maintenance contracts, repairs not covered by maintenance contracts, electricity used in the copying and printing process, time spent on computer terminals; and

WHEREAS, the Township Committee has determined that it therefore needs to revise Section 154 to be consistent with the Court’s decision;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Committee of the Township of Chesterfield, County of Burlington and State of New Jersey that Section 154 is hereby eliminated and replaced with the following text:

§ 154-2. Schedule of Administrative Fees.

“A. [NO CHANGE].

“B.(1). The Township, except as otherwise provided by law or regulation, shall be entitled to charge and collect a fee for the production of copies of public records embodied in the form of printed material at the actual cost of producing same, considering paper, toner or ink, maintenance contracts, repairs, utilities, time spent on computer terminals and such other related and associated equipment, materials and utilities costs, but not including labor and overhead. Nevertheless, in circumstances permitted by N.J.S.A. 47:1A-5(c), a Special Service Charge may be assessed in accordance with Section 154-B(3) below. The Township Committee shall, at least one per year, calculate the cost of copies and have such costs noted on a form utilized for requesting public records and on the Township’s web site.”

BE IT FURTHER ORDAINED that prior sub-paragraphs 154-2(B) (1-3) are deleted and replaced with (B)(1) above, sub-paragraphs (4)-(6) are hereby re-numbered as (2)-(4); and any Ordinances inconsistent with the terms of this Ordinance be and the same are hereby repealed to the extent of their inconsistency.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon proper passage in accordance with the law.

CHESTERFIELD TOWNSHIP COMMITTEE