

## RESOLUTION 2009-09

### SCHEDULE "A"

#### **CONEWAGO TOWNSHIP, YORK COUNTY, PENNSYLVANIA RIGHT-TO-KNOW POLICY FOR PUBLIC RECORDS**

##### **I. Introduction**

Conewago Township, York County, Pennsylvania, is a body corporate and politic, being a second class township, governed by the Second Class Township Code, 53 P.S. §65 101 et seq. As such, the Township is a local agency for purposes of the Right-to-Know Law, Act 3 of 2008.

All local agencies are required to provide public records in accordance with the Right-to-Know Law. Therefore, any record in the possession of the Township shall be presumed to be a public record, except in the following circumstances:

- A. The record is exempt under §708 of the Right-to-Know Law;
- B. The record is protected by the attorney work product doctrine, the attorney/client privilege, or other privilege recognized by a court interpreting the laws of the Commonwealth of Pennsylvania; or
- C. The record is exempt from disclosure under any other federal or state law or regulation, or judicial order or decree.

Records are broadly defined under the Right-to-Know Law. 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.

Requests for public records can be made by any person who is a legal resident of the United States, including resident aliens. Requests to the Township can also be made by other local agencies, Commonwealth agencies (e.g., The Department of the Auditor General or the Treasury Department), judicial agencies (i.e., the courts), or legislative agencies (e.g., the Senate and House of Representatives).

##### **II. Access and Procedure**

Requesters may make oral requests for access to records. However, if the requester wishes to pursue the relief and remedies provided for in the Right-to-Know Law, including the right to appeal the determination of the Township, the request for access to records must be a written request. A written request for access to records may be submitted in person, by mail, by e-mail, or by facsimile.

***The Township has designated Lou Anne Bostic, to act as the Open-Records Officer). The Township has designated Albert Neufeld, Jr., to act as the Alternate Open-Records Officer. The Officer's and Alternate Officer's contact information is set forth below:***

\_\_\_\_\_/Open Records Officer  
**Conewago Township -  
490 Copenhaffer Road  
York, PA 17404  
(717) 266-2122  
conetwp@comcast.net**

Questions regarding this policy may be directed to the Officer at the telephone, address or email listed above.

All written requests must be addressed to the Officer, and all such requests must be submitted in person, by mail, by e-mail or by facsimile. In the event that a written request for records is addressed to a Township employee other than the Officer, the Township employee shall promptly forward such requests to the Officer.

Written requests should identify or describe the record sought with sufficient specificity to enable the Township to ascertain which records are being requested. Unless otherwise required by law, a written request need not include any explanation of the requester's reason for requesting the records or the intended use of such records. A form which may be used to file a request is posted on the Township's internet website at [www.conewagotwp.com](http://www.conewagotwp.com). The Township shall assign a tracking number to each filed form so as to track the Township's progress in responding to requests under the Right-to-Know Law.

The Township shall have the right to collect all fees due for the records prior to delivering the records to a requester. Once the records have been collected and the fee for those records has been determined, the Officer will notify the requester in writing of the availability of the records and the fees due. The fees shall be as authorized by a resolution of the Township, and shall be based on the fees authorized by the State's Office of Open Records. Prior to granting a request for access in accordance with the Right-to-Know Law, the Township may require a requester to prepay an estimate of the fees authorized by law if the fees required to fulfill the request are expected to exceed \$100.00. Except as otherwise provided by statute, no other fees may be imposed unless the Township necessarily incurs costs for complying with the request, and such fees must be reasonable.

A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. In other words, the Township shall not be required to create a record which does not currently exist or to otherwise compile, maintain, format or organize a record in a manner in which it does not currently compile, maintain, format or organize such record.

Upon receipt of a written request for a public record, the Officer shall do the following:

- A. Note the date of the receipt on the written request;
- B. Compute the day on which the five-day period (see discussion of response, below) will expire, and make a notation of that date on the written request; and
- C. Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

### **III. Township's Response**

Upon receipt of a written request for access to a record, the Township shall make a good faith effort to determine if the record requested is a public record and whether the Township has possession, custody or control of the identified record. When doing so, the Township will respond as promptly as possible under the circumstances existing at the time of the request. Under the Right-to-Know Law, the Township must send a response within five (5) business days of receipt of the written request for access, or else the written request shall be deemed denied. For purposes of this policy, a business day is any Monday, Tuesday, Wednesday, Thursday or Friday, during hours when the office is open as established by the Township, except those days when the Township's office is closed for all or part of a day due to a state holiday.

Upon receipt of a written request for access, the Officer shall determine if one of the following applies:

- A. The request for access requires redaction of a record in accordance with the Right-to-Know Law;
- B. The request for access requires the retrieval of a record stored in a remote location;
- C. A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- D. A legal review is necessary to determine whether the record is a record subject to access under the Right-to-Know Law;
- E. The requester has not complied with the Township's policies regarding access to records;
- F. The requester refuses to pay applicable fees authorized by the Right-to-Know Law; or
- G. The extent or nature of the request precludes a response within the required time period of five (5) business days.

Upon a determination that one or more of the factors listed above applies, the Officer shall send written notice to the requester within five (5) business days of receipt of the request for access.

The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided, and an estimate of applicable fees owed when the record becomes available. Information which the Township redacts in accordance with the Right-to-Know Law shall be deemed a denial.

If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for above, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the Township has not provided a response by that date.

For purposes of this policy, the "mailing date" shall be the date affixed to a: (1) response from the Officer to a request, which is to be the date the response is deposited in the U.S. mail; (2) final determination from the Officer, which is to be the date the final determination is deposited in the U.S. mail.

#### **IV. Appeal of Township's Determination**

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the state's Office of Open Records within fifteen (15) business days of the mailing date of the Township's response or within fifteen (15) business day 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 Township for delaying or denying the request.

The State's Office of Open Records has established an internet website at [www.openrecords.state.pa.us](http://www.openrecords.state.pa.us) with information relating to the Right-to-Know Law, including information on fees, advisory opinions and decisions, plus the name and address of all Open-Records Officers in the Commonwealth of Pennsylvania. The name, address, telephone number, and e-mail address for the Appeals Officer of the Office of Open Records and for the Office of Open Records is:

Terry Mutchler  
Commonwealth of Pennsylvania  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street, Plaza Level  
Harrisburg, PA 17 120-0225  
Telephone: 717-346-9903  
E-mail: [oyenrecords@state.pa.us](mailto:oyenrecords@state.pa.us)

#### **V. Retention of Records Access to Township Computers**

Nothing in the Right-to-Know Law shall be construed to modify, rescind or supersede the Township's lawfully adopted record retention and disposition policy. Moreover, nothing in the Right-to-Know Law shall be construed to require access to any computer of the Township, or that of an individual or employee of the Township.

Adopted January 5, 2009 by Resolution # 2009-09

CONEWAGO TOWNSHIP  
YORK COUNTY, PENNSYLVANIA  
FEES FOR RECORDS PURSUANT TO THE RIGHT-TO-KNOW LAW

The following fees shall be charged by Conewago Township for records provided or made available pursuant to the Right-To-Know Law, Act 3 of 2008. Unless otherwise stated, all fees are due at the time the records are made available by the Township to the requester. If the records are to be mailed to the requester, all fees shall be due before the records are mailed. At the time the Township notifies the requester that the records are available, the Township will notify the requester of the amount of the fees that are due.

1. Postage fees — the actual cost of mailing.
2. Fees for photocopying, printing from electronic media, copying onto electronic media, transmission by fax or other electronic means or other means of duplication: \$ 0.25 per page
3. Fees for complex and expensive data sets, including GIS or property assessment lists — To be established for each data set as requested, based on the reasonable market value of the same or related data sets. (No fee will be charged when the request is by or for a newspaper or magazine, press association, or radio or television station, for the purpose of obtaining information for publication or broadcast, or is requested by a nonprofit organization for the conduct of educational research.)
4. Official certification of copies if at the request of the requester: \$1.00 for each certification
5. For records only maintained electronically or in other non-print media — The lesser of the fee for duplication on paper as set out in Paragraph 2, above, or the actual cost for duplication in the original media (unless the requester specifically requests that it be duplicated in the more expensive medium).
6. The Township shall charge all costs actually incurred by it for complying with the request. (No fee may be imposed for an agency's review of a record to determine whether it is a public record subject to access.)
7. If the Township's Right-To-Know Officer expects the fees for requested records to exceed \$100, then, prior to granting a request for access, the Township may require prepayment of the estimated amount of the fees.
8. The Township, in its sole discretion, may waive fees when the requester duplicates the record, or the Township deems it is in the public interest to do so.
- 9.

Effective 1/1/09

**SCHEDULE "B"**

**CONEWAGO TOWNSHIP**

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

REQUEST SUBMITTED BY:

E-MAIL      U.S. MAIL      FAX      IN-PERSON

NAME OF REQUESTOR: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY/STATE/COUNTY (Required): \_\_\_\_\_

TELEPHONE (Optional): \_\_\_\_\_

RECORDS REQUESTED:

*\*Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

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RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

*Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.)  
Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*