

**CONEWAGO TOWNSHIP  
DAUPHIN COUNTY, PENNSYLVANIA**

**RESOLUTION NO. 2009-1**

RESOLUTION by the Board of Supervisors of the Township of Conewago, Dauphin County, Pennsylvania, establishing the Township's Open Records Policy for access to public records of the Township;

WHEREAS: Act 3 of 2008 rewrites the state's Open Records Law to further provide for access to public records, which Act became effective January 1, 2009.

WHEREAS: Under the new act, a public record is presumed open unless closed by the law, another statute, or judicial interpretation. The law defines 30 exceptions that are defined in the Township's policy.

WHEREAS: When a record is denied, the burden of proof is on the Township to show that the record was properly denied.

WHEREAS: Act 3 creates an independent Office of Open Records in the Department of Community and Economic Development to provide information relating to implementation and enforcement of the act; issue advisory opinions; provide training on the act; assign appeals officers; and establish an informal mediation program to resolve disputes. The Office will be required to:

- (1) If Township has website: Put information on the act on the web site;
- (2) establish fees;
- (3) submit an annual report to the Governor and General Assembly;
- (4) establish regulations for appeals;
- 5) establish a uniform records request form.

NOW, THEREFORE, BE IT RESOLVED that the Supervisors of the Township of Conewago, Dauphin County, Pennsylvania, hereby adopts the attached policy on access to public records in the Township of Conewago.

ADOPTED by the Board of Supervisors of the Township of Conewago this 5th day of the month of January, 2009.

BOARD OF SUPERVISORS  
TOWNSHIP OF CONEWAGO  
DAUPHIN COUNTY, PENNSYLVANIA

ATTEST:

By: *Shirley A. Meyers*  
Secretary

By: *John D. Rochet*  
Chairman

(SEAL)

## B. Defining a Public Record

A public record is any information regardless of form, documenting a transaction or activity of an agency, is created, received, or retained pursuant to law or in connection with a transaction, business or activity of the agency. It includes documents, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data processed or image-processed document.

All documents are presumed to be a public record unless exempt under Section 708.

## C. Exemptions

**Law:** A record that is protected or considered confidential under a separate, existing law, or under judicial court order or decree.

**Privilege:** A record that is protected by privilege. (attorney-client, doctor-patient, or recognized by PA court)

**1) Loss of Funds:** A record that would result in the loss of federal or state funds, or is reasonably likely to result in physical harm to or the personal security of an individual.

**2) Public Safety:** A record that is reasonably likely to jeopardize or threaten public safety or preparedness, homeland security, or designated classified by a federal or state military authority.

**3) Infrastructure Security:** A record that is reasonably likely to endanger safety or security of a building, public utility, infrastructure, or information storage system.

**4) Computer Security:** A record containing information on computer hardware, software and networks, including administrative or technical records, which if disclosed, would jeopardize computer security.

**5) Medical Information:** A record that contains HIPAA-type records, unemployment compensation records, workers compensation records, or information concerning individual medical, psychological, psychiatric, or disability information.

**6) Personal Identifiers:** A record that contains personal identifiers including social security number, driver's license number, personal financial information, home, cellular, or personal telephone numbers, personal e-mail addresses, employee number or personal identification number, spouse's name, marital status, beneficiary or dependent information, home address of a law enforcement officer or judge.

**18) 911 Records:** 911 recordings and records unless determined by a court to be public interest.

**19) DNA Records:** DNA and RNA records

**20) Autopsy Records:** Only the name of the deceased and the cause and manner of death need to be reported.

**21) Minutes:** Draft minutes and executive session minutes

**22) Real Estate Transactions:** Real estate appraisals, engineering or feasibility estimates, environmental reviews, relating to lease, acquisition, or disposal of real property, equipment connected with a real estate transaction and construction projects. Information becomes public when a decision is made to proceed with the acquisition, disposal, or construction.

**23) Library Records:** Library and circulation records of an identifiable individual or group.

**24) Library Materials:** Library archived and museum materials or valuable or rare book collections or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution.

**25) Archaeological and Species Sites:** A record identifying the location of archaeological or endangered or threatened species sites, if not known to the general public.

**26) Procurement:** Information gathered prior to a bid being awarded.

**27) Insurance:** A record of communications with insurers, carriers, administrators, or risk management office, except insurance contracts and financial records relating to provision of insurance.

**28) Social Services:** Records of individuals relating to application for and provision of delineated social services.

**29) Legislative Constituent Correspondence:** Normal constituent correspondence, except correspondence from registered lobbyists.

**30) Minor Child:** Records identifying the name, home address or date of birth of a child 17 or under.

#### **D. Fees for Copies and Other Media**

The Township will utilize the fee schedule established by the DCED Office of Open Records.

The cost of postage will be charged, if mailing is requested.

A maximum of 10 pages will be faxed or e-mailed at no charge. Requests exceeding 10 pages must be picked up or mailed.

Payment must be received in advance for requests that are estimated to be \$100 or more in order for the request to be filled. The Township will review the request and estimate the fees for the requester, and will require a deposit in the amount of the estimated fees, but will refund any excess deposit upon completion of the request.

If additional costs are incurred to comply with any request, other reasonable fees may be assessed. Such cost may be assessed when custodial responsibilities are required during the review of records to assure that the records are not tampered with or removed from the Township's files.

Custodial fees will be charged at 1.2 times the record custodian's normal rate of pay, calculated on an hourly basis, at fifteen (15) minute intervals rounded to the next higher interval.

If the requester fails to retrieve the records within 60 days, The Township may dispose of the records and retain any fees paid.

The Township may waive the fees for duplication of a public record when the Township deems it is in the public interest to do so, or at its discretion.

#### **E. Denial of a Request and Appeals Process**

1. The Township will contact the DCED Open Records Office for an advisory opinion.
2. The Township will deny a request for a document if that document is not a public document or when
  - 1) A request is repeated for the same record placing an unreasonable burden on the Township;
  - 2) Timely access is not possible due to a disaster; or
  - 3) Access would cause damage to historical documents.
3. All denials will be provided in writing, even if only a portion of the document is denied or removed. The written denial must include the following:

3. The court may impose penalties and costs in accordance with the applicable rules of the court.

**G. Maintenance of Records**

1. The Township will follow the Municipal Records Manual provided by the Pennsylvania Historical and Museum Commission Division of Archival and Records Management Services.