

PUBLIC RECORDS POLICY

1) The terms “agency,” “public record,” “record,” “requester” and “response” shall have the same meaning as ascribed to them under the Right to Know Act, Act of June 21, 1957 (P.L. 390, No. 212), as amended, and restated, Act of February 14, 2008 (P.L. 6, No. 3), and as further defined under the decisions now and hereafter rendered by the various courts of the Commonwealth of Pennsylvania.

2) Minutes of public meetings and/or public hearings conducted by or on behalf of the Township shall not be considered “public records” until after the same have been approved and thereby made official by the affirmative vote of at least a majority of the Township’s Board of Supervisors entitled to vote thereon.

3) Under Section 708 of the Right to Know Act, the Township shall not provide access to records that are not considered “Public records” and are exempt from access.

4) Subject to the provisions of this Resolution, the public records of the Township shall be available for access during the regular business hours of the Township. Nothing in this Resolution shall be construed or otherwise interpreted to provide for access to a record that is not a public record. The Township shall not be required to create a public record that does not currently exist or to compile, maintain, format or organize a public record in a manner in which the Township does not currently compile, maintain, format or organize the public record.

5) Subject to the provisions of this Resolution, the Township Secretary is and shall be the duly appointed Township Open Records Officer, and shall be and is hereby designated to receive requests for access to records. Therefore, a requester shall submit such a request to the Township Open Records Officer.

The contact information for the state Office of Open Records is as follows: Office of Open Records, Commonwealth Keystone Building, 400 North Street, Plaza Level, Harrisburg, PA 17120-0225, phone number 717-346-9903, email address openrecords@state.pa.us.

6) Any legal residents of the United States of America shall have the right to examine and inspect the public records of the Township and shall have the privilege of requesting the duplication and release of the public records of the Township. Written proof, satisfactory to either one of the persons designated in the provisions of this Resolution, of current residency in the United States shall be provided at the time of requesting access to the public records of the Township. No public records of the Township shall be made available for examination or inspection or duplicated and released until full payment for the same is made to the Township.

7) Requests.

a) Verbal requests. The Township shall not fulfill or otherwise respond to any verbal requests for access to records.

b) Anonymous requests. The Township shall not fulfill or otherwise respond to any anonymous requests for access to records.

c) Written requests. All requests for records shall be submitted in writing as provided for in this Resolution. All written requests for access to records shall be addressed to and submitted to the Open Records Officer. All written requests shall be submitted on the Township's Request for Public Records form as established in this Resolution or on the form approved by the Pennsylvania Office of Open Records. All written requests shall be submitted only by one of the following ways: in person; by first class U.S. mail postage prepaid; by certified U.S. mail postage prepaid; by registered U.S. mail postage prepaid; or by facsimile transmission. All written requests shall identify or describe the records sought with sufficient specificity to enable the Township to ascertain which records are being requested and shall include the name and address to which the Township should address its response.

d) Other means of requests. The Township shall not accept any requests for access to records by any other means, including but not limited to electronic means, with the exception of the provisions authorized for the use of auxiliary aids, to the extent possible, to accommodate citizens with hearing, vision or speech impairments under the Americans With Disabilities Act of 1990, 42 U.S.C.A. § 12101, *et seq.* The Township shall charge a fee comparable to the fees for electronic media provided for in this Resolution for the utilization of such auxiliary aids in the duplication of public records.

8) If the Township determines that a public record contains information which is subject to access as well as information which is not subject to access, then the Township's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record and cannot be separated, then the Township shall redact from the public record the information which is not subject to access and the response shall grant access to the information which is subject to access. Information which the Township redacts in accordance with this paragraph shall be deemed a denial.

9) 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 to respond as promptly as possible under the circumstances existing at the time of the request, but shall not exceed five (5) business days from the date the written request is received by the persons designated in the provisions of this Resolution. If the Township fails to send the response within five (5) business days of receipt of the written request for access, then the written request for access shall be deemed denied.

a) Upon receipt of a written request for access, if the Township determines that one of the following applies:

- (1) The request for access requires redaction of a public record in accordance with the provisions of this Resolution;
- (2) The request for access requires the retrieval of a record stored in a remote location;
- (3) A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- (4) A legal review is necessary to determine whether the record is a public record subject to access under the Right to Know Act;
- (5) The requester has not complied strictly with the provisions of this Resolution; or
- (6) The requester refuses to pay applicable fees authorized by the provisions of this Resolution, then the Township shall send written notice to the requester within five (5) business days of the Township's receipt of the request notifying the requester that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expected to be provided. 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 in this paragraph, then the request for access shall be deemed denied.

b) If the Township's response is a denial, whether in whole or in part, then a written response shall be issued and include:

- (1) A description of the record requested.
- (2) The specific reasons for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, then the specific reasons for the Township's determination that the record is not a public record shall be included.
- (3) The typed or printed name, title, business address, business telephone number and signature of the public official or public employee on whose authority the denial is issued.
- (4) Date of the response.
- (5) The procedure to appeal the denial of access as outlined in the provisions of this Resolution.

c) If the Township's response grants a request for access, then the Township shall, upon written request, provide the requester with a

certified copy of the public record if the requester pays the applicable fees authorized by the provisions of this Resolution.

10) If a written request for access is denied or deemed denied, then the requester may file an appeal in writing within fifteen (15) business days of the mailing date of the Township's response or within fifteen (15) days of a deemed denial to: Terry Mutchler, Executive Director, Officer of Open Records, Commonwealth Keystone Building, 400 North Street, Plaza Level, Harrisburg, PA 17120-0225. The appeal shall state 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.

11) The requester shall not be permitted to examine or inspect public records in private; instead, any such examination or inspection shall take place only in the presence of the Township's duly designated individual..

12) The Township hereby establishes the following fee schedule, which fees shall be paid to the Township:

a) Duplication by Photocopying:

Standard paper	\$.25 per page
Legal size paper	\$.25 per page
Ledger size paper	\$.25 per page
Electronic Means	N/A

b) Printing from Electronic Media or Microfilm:

Standard paper	\$ 1.00 per page
Legal size paper	\$ 1.00 per page
Ledger size paper	\$ 1.00 per page
Electronic Means	N/A

c) Copying onto Electronic Media:

Standard paper	N/A
Legal size paper	N/A
Ledger size paper	N/A
Electronic Means	Flat fee of \$ 10.00

d) Transmission by Facsimile or other Electronic Means, which fees are in addition to any other applicable fee:

Standard paper	\$ 1.00 per page per local call
	\$ 2.50 for first page + \$1.00 per each page thereafter for long distance call

Legal size paper	\$ 1.00 per page per local call \$ 2.50 for first page + \$1.00 per each page thereafter for long distance call
Ledger size paper	N/A
Electronic Means	Flat fee of \$ 10.00

e) Certification of Paper Duplications:

Standard paper	\$ 1.00 per document
Legal size paper	\$ 1.00 per document
Ledger size paper	\$ 1.00 per document
Electronic Means	N/A

f) Certification of Electronic Duplications:

Standard paper	N/A
Legal size paper	N/A
Ledger size paper	N/A
Electronic Means	Flat fee of \$10.00

g) If the public record is only maintained electronically or in other nonpaper media, then the fee for the duplication thereof shall be limited to the lesser of the fee for duplication on paper or the fee for copying onto electronic media; provided, however, that if the requester specifically requests for the public record to be duplicated in the more expensive medium, then the fee shall be that which has been established for that more expensive medium.

h) The Township may waive the fees for duplication of a public record when the Township deems that it is in the public interest to do so.

i) In addition to any other fees established in this Resolution, all other actual costs necessarily incurred by the Township for complying with the request are hereby deemed to be a fee that shall be charged to the requester; provided, however, that no fee shall be imposed for the Township's review of a record to determine whether the record is a public record subject to access in accordance with the provisions of this Resolution and the Right to Know Act.

j) All fees hereby authorized shall be charged to the requester and shall be due and payable in full to the Township before providing the requester with the requested access and/or duplication of the public record; provided, however, that if the fees required to fulfill the request are expected to exceed One Hundred Dollars (\$100.00), then the requester shall prepay an estimated amount of such fees to the Township prior to even granting the requester's request for access.

13) A written Request for Public Records substantially in the form attached hereto as Exhibit "A", is hereby established as the official form that shall be used and completed by all citizens requesting any public record of the Township.

14) This policy shall be conspicuously posted by McKean Township in the main waiting room of the Treasurer and Secretary.