

**SCHUYLKILL TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA
RESOLUTION NO. 2017-07**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF SCHUYLKILL TOWNSHIP,
CHESTER COUNTY, PENNSYLVANIA AMENDING PROCEDURES AND RULES
FOR COMPLIANCE WITH THE PENNSYLVANIA RIGHT-TO-KNOW LAW.**

WHEREAS, by Act 3 of 2008, the General Assembly of the Commonwealth of Pennsylvania established the Pennsylvania Right-To-Know Law (the “Law”), which Law provides for, inter alia, access to public records; and

WHEREAS, municipalities and agencies of the Commonwealth have been governed by the Law effective January 1, 2009; and

WHEREAS, Resolution 2009-02 and Resolution 2016-05 were established by the Board of Supervisors of Schuylkill Township (the “Township”) for purposes of complying with the Law and to establish procedures for administering and processing requests for public records; and

WHEREAS, the Board of Supervisors of Schuylkill Township wishes to update and clarify the township’s procedures for administering and processing requests for public records.

NOW THEREFORE, it is hereby **RESOLVED** by the Board of Supervisors of Schuylkill Township as follows:

SECTION 1: Open Records Officer:

- A. The Board of Supervisors of the Township hereby appoints the Township Manager, **Mary R. Bird**, as the Open Records Officer for the Township and further designates the Schuylkill Township Police Department Administrative Assistant, **Patricia J. Tuscai**, as the Open Records Officer for the Township’s Police Department in accordance with the Pennsylvania Right-To-Know Law.
- B. The Township staff shall provide confirmation of these appointments to the Office of Open Records of the Commonwealth of Pennsylvania.
- C. The Open-Records Officers shall perform the following duties:
 1. Receive requests submitted to the Township and the Township Police Department under the Right-To-Know Law;
 2. Direct the requests to other appropriate persons within the Township or to the appropriate person in another agency;
 3. Track the Township’s progress in responding to requests; and
 4. Issue interim and final responses as required by the Law.

SECTION 2: Process Upon Receipt of a Request for Public Record.

- A. Upon receipt of a written request for a public record, the Open-Records Officers shall do the following:
1. Stamp the date of receipt of the written request;
 2. Compute the day on which the five-day response expires and make a notation of that date on the written request;
 3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request until the request has been fulfilled. In the event the request is denied, the written request shall be maintained for 30 days; and
 4. If an appeal is filed, the request and any documents submitted with the request shall be kept until the final determination is issued pursuant to § 1101(b) of Act 3 of 2008 or until the appeal is deemed denied.
- B. The Open-Records Officers shall create a file and keep the original request, a copy of the response and a record of any written communications with the requester.

SECTION 3: Information Request Form.

A requestor of records for Schuylkill Township and Schuylkill Township Police Department shall be in writing and shall be directed to the appropriate Open Records Officer as identified in Section 1 above at the Schuylkill Township Municipal Building, 111 Valley Park Road, Phoenixville, Pennsylvania 19460. Written requests shall be on a form provided by the Township and shall include the date of the request, the name and address of the requestor, contact information, and identify or describe the record(s) sought with sufficient specificity to enable the Township to ascertain which records are being requested.

SECTION 4: Fee Structure

The Board of Supervisors establishes the following fee structure in accordance with the Law:

<u>Record Type</u>	<u>Fee</u>
• Photocopies: <i>(A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page)</i>	\$ 0.25 per page
• Specialized documents: <i>(For example, but not limited to, blue prints, color copies, non-standard sized documents)</i>	Actual Cost
• Police Vehicle Accident Reports:	\$15 per report 75 Pa.C.S. §3751 (b)(2)
• Facsimile/Microfiche/Other Media:	Actual Cost
• Redaction Fee:	No Redaction Fee will be Imposed

- **Conversion to Paper:** If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)).
 - **Postage Fees:** Actual Cost of Mailing
1. **Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the Township shall redact the non-public information. The Township will charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee will be charged.
 2. **Enhanced Electronic Access:** If the Township offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the Township may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by the Law. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof.
 3. **Prepayment:** the Township may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.00. Once the request is fulfilled and prepared for release, the Township shall obtain the cost of the records prior to releasing the records.

SECTION 5: Public and Non-Public Record Information

There are some types of information that will not be available under the Law (Sec. 708) including, but not limited to, the examples below:

- Social Security numbers
- Driver's license numbers
- Home, cellular or personal phone numbers
- Employee numbers
- Employee records
- Personal financial information
- Spouses name, marital status, beneficiary or dependent information
- Home addresses of law enforcement and judges
- Identity of confidential informants.
- Non-criminal investigations

- Records that identify social service recipients, including welfare recipients
- A minor's name, home address, date of birth.
- Constituent requests to a member of the House or Senate
- Library circulation cards
- Pre-decisional deliberations
- Information protected under Attorney-Client privilege
- Copies of commercial construction records except to the building owner of record, the permit holder, the design professional of record or a third party authorized by the building owner in writing to receive the documents upon presentation of valid identification (*per § 403.85 of The Pennsylvania Code*).
- Copyrighted materials

If a requested record contains both public record information as well as non-public record information, the Township may redact the non-public record information from the record in accordance with § 706 of the Law.

All records for criminal investigation records under the Open Records Act will be immediately referred to the Open Records Officer of the Chester County District Attorney's Office in the following cases, regardless of whether the investigation is open, closed or disposed of by arrest of a suspect:

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|---------------------------|---|
| • Any Homicide case | • Any Child Pornography/Sexual Abuse of Children case |
| • Any Child Abuse case | • Any Corrupt Organizations case |
| • Any Elderly Abuse case | • Any Kidnapping and related Offences |
| • Any Sexual Assault case | • Retaliation/Intimidation of a Witness |
| • Any Arson Case | |

SECTION 6: Time for Response

Upon receipt by the Open Records Officer of a written request for access to a record, a good faith effort shall be made to determine if the record requested is a public record and to respond promptly under the circumstances existing at the time of the request. The time for response shall not exceed five (5) business days from the date the written request is received by the Open Records Officer. If the Township fails to send the response within five (5) business days of receipt of the written request, the written request shall be deemed denied.

Records shall be held accessible in response to any specific Right-to-Know request for a period of thirty (30) days from the date of the Open Records Officer(s)' notification to the requestor that the request has been fulfilled. After thirty days, a new Right-to-Know request must be filed with the Open Records Officer(s). If costs have been incurred by the Township in the fulfillment of any Right-to-Know request and the requestor does not reimburse those costs to the Township for whatever reason, no additional Right-to-Know request(s) from said requestor shall be fulfilled until all outstanding fulfillment costs have been reimbursed to the Township.

SECTION 7: Extension of Time

- A. Upon receipt of a written request for access, the Open-Records Officer shall determine if one of the following applies:
1. The request for access requires redaction of a record;
 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 record subject to access under the law;
 5. The requestor has not complied with the Township's policies regarding access to records;
 6. The requester refuses to pay authorized fees to be charged by the Right-To-Know Law; and
 7. The extent or nature of the request precludes a response within the required time period.
- B. Upon determination that one of the factors listed in Section 6.A. applies, the Open-Records Officer shall send written notice to the requestor within five (5) business days of receipt of the request for access. The written notice shall include the following:
1. That the request for access is being reviewed;
 2. The reason for the review;
 3. The date when a response is expected to be provided; and
 4. An estimate of applicable fees owed when the record becomes available.

In the event the date a response is expected as noted in Section 6.B.3. is in excess of thirty (30) days following the five (5) business days as noted in Section 5, the request shall be deemed to be denied unless the requestor has agreed in writing to an extension to the date specified in the notice. If such an extension is agreed to in writing, the request shall be deemed denied on the day following the date specified in the extension notice if the Township has not provided a response by that date.

SECTION 8: Denial of Access

- A. If a written request for access is denied, whether in whole or in part, the notice of denial must be in writing.
- B. A written notice of denial directed to the requestor shall contain the following
1. A description of the record requested;
 2. The specific reasons for the denial, including a citation of supporting legal authority;
 3. The typed or printed name, title, business address, business telephone number and signature of the Open-Records Officer on whose authority the denial is issued;
 4. The date of the response; and
 5. The procedure to appeal the denial of access under the Right-To-Know Law.

SECTION 9: Appeal Procedure

If the request is denied or deemed, the requestor may file an appeal with the Office of Open Records or judicial, legislative or other appeals office designated under the Pennsylvania Right-To-Know Law within fifteen (15) business days of the mailing date of the Township's response or deemed denial. The appeal shall proceed in accordance with the Pennsylvania Right-To-Know Law. The appeal shall state the grounds upon which the requestor asserts that the record is a public record and shall address any ground stated by the Township for denying or delaying the request.

SECTION 10: Severability

In the event any provision, clause, Section or Paragraph of this Resolution shall be held to be invalid, such invalidity shall not affect or impair any remaining provisions, clauses, Sections or Paragraphs, it being the intent of the Board of Supervisors of the Township that the remaining portions of this Resolution shall remain in full force and effect.

SECTION 11: Repealer

All resolutions or parts of resolutions which are inconsistent herewith are hereby repealed.

SECTION 12: Effective Date

This resolution will take effect on April 5, 2017.

RESOLVED this 5th day of **April, 2017** in public session duly assembled.


ATTEST:



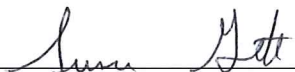
Schuylkill Township Secretary

(Township Seal)


**SCHUYLKILL TOWNSHIP
BOARD OF SUPERVISORS**



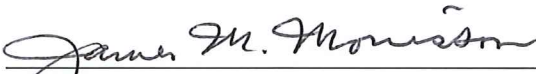
Barbara H. Cohen



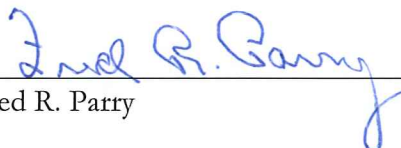
Susan Guerette



Martha M. Majewski



James M. Morrisson



Fred R. Parry