

RESOLUTION NO. 2008 - 09

**RESOLUTION OF THE BOROUGH COUNCIL OF THE
BOROUGH OF CONNOQUENESSING, COUNTY OF
BUTLER, COMMONWEALTH OF PENNSYLVANIA,
ADOPTING A POLICY FOR INSPECTION AND
DUPLICATION OF PUBLIC RECORDS IN ACCORDANCE
WITH THE PENNSYLVANIA RIGHT TO KNOW LAW, AS
AMENDED BY ACT 3 OF 2008.**

WHEREAS, Connoquenessing Borough is a body corporate and politic in the County of Butler, Commonwealth of Pennsylvania; and

WHEREAS, the Borough is an agency as that term is defined in the Pennsylvania Right-to-Know Law, Act of June 21, 1957, P.L. 390, No. 212, as amended by the Act of June 17, 1971, P.L. 160, No. 9, as amended by Act 100 of 2002, and amended by Act 3 of 2008; and

WHEREAS, Chapter 5 of the Right-to-Know Law mandates the Borough adopt a policy to implement the Right-to-Know Law and to establish procedures for inspection and duplication of public records; and

WHEREAS, Chapter 13 of the Right-to-Know Law authorizes the Borough to impose reasonable fees based on prevailing fees for comparable duplication services provided by local business entities; and

WHEREAS, the Borough has obtained information concerning duplication fees charged by business entities serving the area; and

WHEREAS, the Borough Council desires to adopt a written policy for the processing of requests for inspection and duplication of public records under the Right-to-Know Law and to establish fees.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Borough Council of the Borough of Connoquenessing, Butler County, Pennsylvania, as follows:

Section 1. Purpose. The purpose of this policy is to insure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. § 66.1 et seq., as amended, to provide access to the public records of the Borough, to preserve the integrity of the Borough's records, and to minimize the financial impact to the residents of the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Section 2. Policy. It is the policy of the Borough to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the Borough. The Borough designates the Borough Secretary as the municipal person responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

1. The Borough may designate certain employee(s) to process public records requests.

2. All requests for public records of the Borough under this policy shall be specific in identifying and describing each public record requested. In no case shall the Borough be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Borough does not

currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and on a form provided by the Borough, as entitled "RIGHT-TO-KNOW REQUEST FORM" and directed to the Borough Secretary at the Borough Building, located at P.O. Box 471, 228 Constitution Avenue, Connoquenessing, PA 16027.

3. All requests for police and/or fire incident reports shall be submitted on a form provided by the police department and/or the fire department (the "Public Safety Departments"). In no case shall the Public Safety Departments be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Public Safety Departments do not currently compile, maintain, format or organize the public record. Release of information by the Public Safety Departments is subject to the Criminal History Information Act, 18 Pa. C.S. §§ 9101-9183, and other applicable law.

4. The designated employee shall make a good faith effort to determine whether each record requested is a public record.

5. The Borough shall facilitate a reasonable response to a request for Borough public records. In no case is the Borough expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Borough's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law, and where applicable, the Criminal History Information Act, and other applicable law.

6. The Borough Secretary shall respond to the requester within five (5) Connoquenessing Borough business days from the date of receipt of the written

request. If the Borough does not respond within five (5) Connoquenessing Borough business days of receipt thereof, the request is deemed denied. The Borough Secretary shall respond to all such requests in a manner consistent with Act 100 of 2002, the Open Records Law.

7. The response provided by the Borough shall consist of (1) approval for access to the public record; (2) review of the request by the designated employee; or (3) denial of access to the public record requested.

8. If access to a public record requested is approved, the public record shall be available for access during the regular business hours of the Borough, Tuesday and Thursday 9 a.m. to 12 noon, with the exception of holidays. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the Borough's public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are reviewed and examined.

9. Fees for duplication of public records shall be first according to the Borough Fee Schedule and then by the Fee Structure established by the Pennsylvania Office of Open Records.

Records not maintained by the Connoquenessing Borough such as Fire Incident reports, Police Traffic Accident reports, Police Criminal reports, and Police Computer Aided Dispatch call sheets must be obtained from the appropriate Authorities.

10. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100, the designated employee(s) shall obtain 100% of the

expected cost in advance of fulfilling the request to avoid the unwarranted expense of the Borough resources.

11. If the request is being reviewed, a written notice will be provided to the requester by the Borough within five (5) Borough business days of receipt of the request and shall include the reason for the review, an estimate of applicable fees owed when the record becomes available, and the expected response date, which shall be within thirty (30) days of the notice of the review. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed for, 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 Borough has not provided a response by that date. Review of the request is limited to situations where:

- (a) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
- (b) The record requires retrieval from a remote location;
- (c) A timely response cannot be accomplished due to staffing limitations;
- (d) A legal review is necessary to determine whether the record requested is a public record;
- (e) The requester has failed to comply with the Borough's policy and procedure requirements;

- (f) The requester refuses to pay the applicable fees;
- (g) The extent or nature of the request precludes a response within the required time period.

12. If access to the record requested is denied, the notice provided by the Borough shall be in writing.

13. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth's Office of Open Records within fifteen (15) business days of the mailing date of the Borough's notice of denial, or within fifteen (15) days of a deemed denial. The appeal shall state

- (a) The date of the original request;
- (b) Identify and describe the record(s) requested;
- (c) State the grounds upon which the requester asserts the record(s) is a public record; and
- (d) Address any grounds stated by the Borough in its notice of denial.

14. The Office of Open Records shall assign an appeals officer to review the denial. A final determination will be made within thirty (30) working days of the receipt of the appeal, unless extended by the parties. If the appeals officer fails to issue a final determination within 30 days, the appeal is deemed denied. Prior to issuing a final determination, a hearing may be conducted. The determination by the appeals officer shall be a final order. If the denial is upheld, the decision shall contain a written explanation of the reason for denial.

15. This policy shall be posted conspicuously at the Borough Building on a public bulletin board.

Section 3. In the event any provisions, section, sentence, clause, or part of this Resolution shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Resolution, it being the intent of the Borough Council that the remainder of the Resolution shall be and remain in full force and effect.

Section 4. This Resolution shall take effect and be in force on January 1, 2009.

DULY ADOPTED by the Borough Council of Connoquenessing Borough, Butler County, Pennsylvania, this 2nd day of December, 2008.

CONNOQUENESSING BOROUGH
BOROUGH COUNCIL
BUTLER COUNTY, PENNSYLVANIA

_____ Lloyd L. Leslie _____
Borough Council President

ATTEST:

__ Vickie L. Forbes _____
Secretary