

**RESOLUTION NO. 2008-022**

**A RESOLUTION OF THE TOWNSHIP OF TOBYHANNA, MONROE COUNTY, PENNSYLVANIA SETTING RULES FOR COMPLIANCE WITH THE PENNSYLVANIA RIGHT TO KNOW LAW, EFFECTIVE JANUARY 1, 2009.**

*WHEREAS*, Senate Bill No. 1 (Act 3) was signed into law by Governor Edward G. Rendell on February 14, 2008. This legislation is effective January 1, 2009 and is called the "Right-to-Know Law"; and

*WHEREAS*, public records shall be accessible for inspection and duplication during regular business hours in the medium requested, if said public records exist in the requested medium and if the public records are not exempt and/or privileged pursuant to the Right-to-Know Law; and

*WHEREAS*, requests for public records from the Township of Tobyhanna ("Township") shall be governed by this Resolution and the aforementioned Pennsylvania Right-to-Know Law.

*NOW THEREFORE*, be it resolved by the Board of Supervisors of the Township of Tobyhanna that the following rules regarding public records are adopted:

**SECTION 1. INFORMATION REQUEST FORM.**

A requester of records shall complete an information request form provided by the Office of Open Records and/or the Township and shall identify the requested records with sufficient specificity.

**SECTION 2. OPEN RECORDS OFFICER.**

The Township hereby designates the Township Secretary as the Open Records Officer in accordance with the Pennsylvania Right-to-Know Law and said Open Records Officer shall receive requests submitted to the Township under the Right-To-Know Law, direct requests to other appropriate persons within the Township or to appropriate persons in another agency, track the Township's progress in responding to requests and issue interim and final responses.

**SECTION 3. ACCESS REQUESTS.**

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.

**SECTION 4. ACCESS; TIME FOR RESPONSE EXCEPTIONS.**

Upon receipt of a written request for access to a public record, the Township shall make a good faith effort to respond as promptly as possible under the circumstances existing at the time of the request. The response shall not exceed five (5) business days from the date of the written request. The failure of the Township to respond in the designated time frame shall be deemed a denial of the request unless one of the following exceptions applies:

1. The request requires the redaction of information within a public record;
2. The request requires the retrieval of the document from a remote location;
3. A timely response cannot be accomplished due to legitimate staffing limitations;
4. A legal review is necessary;
5. Requester did not comply with the Township's policies regarding public access;
6. The requester refuses to pay fees; or
7. The extent or nature of the request precludes a response within the required time period.

In the event of one or more of the above exceptions, the Township shall send written notice to the requester within five (5) business days of the request stating the request is being reviewed, the reason for review and the exception that applies, the expected response date and an estimate of applicable fees owed when the record becomes available. If a response is expected more than thirty (30) days after the five-day period, the request is deemed denied unless otherwise agreed to by the requester in writing.

**SECTION 5. DENIAL OF ACCESS.**

If the request is denied, the following must be included with the denial:

1. Description of the record requested;
2. Specific reasons for the denial, including a citation of supporting legal authority;
3. Typed or printed name, title, business address, business telephone number and signature of the open records officer on whose authority the denial was issued;
4. Date of response; and
5. Appeal procedure.

**SECTION 6. APPEAL PROCEDURE.**

If the request is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer 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 Act. 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 denying or delaying the request.

**SECTION 7. FEE SCHEDULE.**

The fee schedule for information and/or record requests may be set forth in the Township's current Fee Resolution, as amended.

**SECTION 8. SEVERABILITY.**

In the event any provision, section, sentence, clause or part of this Resolution shall be held to be invalid, such invalidity shall not affect or impair any remaining provisions, section, sentence, clause or part of this Resolution, it being the intent of the Board of Supervisors that the remainder of the Resolution shall remain in full force and effect.

**SECTION 9. REPEALER.**

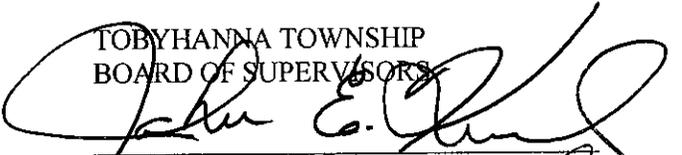
All resolution or parts of resolutions which are inconsistent herewith are hereby repealed.

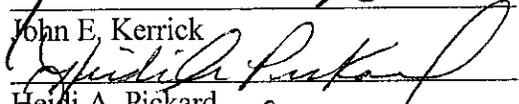
**SECTION 10. EFFECTIVE DATE.**

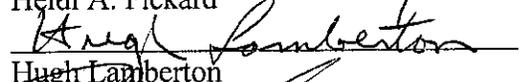
This Resolution shall take effect on January 1, 2009.

**SO RESOLVED** this 8 day of December, A.D., 2008.

TOBYHANNA TOWNSHIP  
BOARD OF SUPERVISORS

  
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John E. Kerrick

  
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Heidi A. Pickard

  
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Hugh Lamberton

  
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Jamie B. Koener

  
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Donald J. Moyer

ATTEST:  \_\_\_\_\_