

## LOWER ALLEN TOWNSHIP

### ADMINISTRATIVE POLICY

**NUMBER:** 2008-05  
**DATE OF ISSUE:** January 2, 2009  
**EFFECTIVE DATE:** January 1, 2009  
**SUBJECT:** RIGHT-TO-KNOW REQUEST PROCEDURES  
**RESCINDS/AMENDS:** 2002-05

This policy statement consists of the following sections:

- I. Purpose
- II. Introduction
- III. Definitions
- IV. Access and Procedures
- V. Township's Response
- VI. Appeal of Township's Determination
- VII. Retention of Records

**I. Purpose**

To establish rules and procedures for complying with the Act 3 of 2008, The Right-to-Know Law ("Act").

**II. Introduction**

Lower Allen Township ("Township") is a body corporate and politic, duly organized as a first-class Township under the First-Class Township Code. As such, the Township is local agency for purposes of the Act.

All local agencies shall provide public records in accordance with the Act. Therefore, any record in the possession of the Township shall be presumed to be a public record, except in the circumstances described in Section IV.B(6) below.

Requests for public records can be made by any person who is a legal resident of the United States, including resident aliens. Requests to the Township can also be made by other local agencies, Commonwealth agencies (e.g. The Department of the Auditor General or the Treasury Department), judicial agencies (i.e., the courts), or legislative agencies (e.g., the Senate and House of Representatives).

**III. Definitions**

**Record** – May be a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically, and a data-processed or image-processed document.

**IV. Access and Procedures**

**A. Right-To-Know Officer** - The Township has designated the Township Secretary to act as the Right-To-Know Officer (“Officer”). The Officer’s contact information is set forth below:

Lower Allen Township Municipal Services Center  
2233 Gettysburg Road  
Camp Hill, PA 17011  
Telephone: (717) 975-7575  
Facsimile: (717) 737-4182 or 975-2287  
Email Address: [danna\\_lutes@lower-allen.pa.us](mailto:danna_lutes@lower-allen.pa.us)

Questions regarding this policy may be directed to the Officer at the telephone or e-mail address listed above.

**B. Requests**

**B.1 Type of request.** Requesters may make oral requests for access to records. However, if the requester wishes to pursue the relief and remedies provided for in the Right-to-Know Law, the request for access to records must be a written request. A written request for access to records may be submitted in person, by mail, by e-mail, or by facsimile. The Township has adopted a form application for written requests, attached hereto as Attachment A.

**B.2 Manner of conveyance.** All written requests must be addressed to the Officer, and all such requests must be submitted in person or by mail, electronic mail, or facsimile. In the event that a written request for records is addressed to a Township employee other than the Officer, the Township employee is directed to promptly forward such requests to the Officer.

**B.3 Description.** Written requests should identify or describe the record sought with sufficient specificity to enable the Township to ascertain which records are being requested.

**B.4 Purpose of request.** Unless otherwise required by law, a written request need not include any explanation of the requester's reason for requesting the records or the intended use of such records. Township staff is prohibited from asking requester the purpose for the request.

**B.5 Tracking.** The Township shall assign a tracking number to each filed form so as to track the Township’s progress in responding to requests under the Act.

**B.6 Exceptions.** The following records shall not be accessible under the provisions of the Act:

- a. Records exempt under Section 708 of the Act.
- b. Records protected by the attorney-work-product doctrine, attorney-client privilege, or other privilege recognized by a court interpreting the laws of the Commonwealth of Pennsylvania (i.e., Statute or case law).
- c. Records exempt from disclosure under any other federal or state law or regulation, judicial order, or decree.

**C. Fees.**

1. The fee structure established by the Office of Open Records under section 1307 of the Act shall be observed and incorporated into the Township's Fee Schedule.
2. Prior to granting a request for access in accordance with the Act, the Township may require a requester to prepay an estimate of the fees authorized by law if the fees required to fulfill the request are expected to exceed \$100.00. The fees must be reasonable and based on prevailing fees for comparable duplication services provided by local business entities.
3. Except as otherwise provided by statute, no other fees may be imposed unless the Township necessarily incurs costs for complying with the request, and such fees must be reasonable.
4. In all circumstances, the requester must agree to pay applicable fees authorized by the Act, such as (but not limited to) postage (not to exceed actual costs of mailing), duplication and certification. All applicable fees shall be paid before requester receives access to the record(s) requested.
5. The Township may impose reasonable fees for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record.

**D. Medium.** A record being provided to a requester shall be provided in the medium requested, if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. The Township shall not be required to create a record which does not currently exist or to otherwise compile, maintain, format or organize a record in a manner in which it does not currently compile, maintain, format or organize such record.

**V. Township's Response**

**A. File creation** – Immediately upon receipt of a written request for a public record, the Officer shall do the following:

1. Note the date of the receipt on the written request;
2. Compute the day on which the five-day period (see Section V.B, below) will expire, and make a notation of that date on the written request; and
3. Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

**B. Good faith effort** – Upon receipt of a written request for a public record, the Township shall make a good faith effort to determine if the record requested is a public record and whether the Township has possession, custody or control of the identified record. The Township will respond as promptly as possible under the circumstances existing at the time of the request. **Under the Act, the Township must send a written response within five (5) business days of receipt of the written request for access, or else the written request shall be deemed denied.** For purpose of this policy, a business day is any Monday, Tuesday, Wednesday, Thursday or Friday, except those days when the Township’s office is closed for all or part of a day due to a federal, state, or Township holiday.

**C. Determination** - Upon receipt of a written request for access, the Officer shall determine if one of the following applies:

1. The request for access requires redaction of a record in accordance with the Act.
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 can not 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 Act.
5. The requester has not complied with the Township’s policies regarding access to records.
6. The requester refuses to pay applicable fees authorized by the Act.
7. The extent or nature of the request precludes a response within the required time period of five (5) business days.

**D. Notifications**

**D.1 Time limit** - Upon a determination that one of the factors listed above applies, the Officer shall send written notice to the requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided, and an estimate of applicable fees owed when the record becomes available. Information which the Township redacts in accordance with the Act shall be deemed a denial.

**D.2 Extension** - If the date that a response is expected to be provided is in excess of thirty (30) calendar days, following the five (5) business days allowed for above, 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 Township has not provided a response by that date.

**D.3 Mailing date** - For purposes of this policy, the “mailing date” shall be the date affixed to a:

1. response from the Officer to a request, which is to be the date the response is deposited in the U.S. Mail;

2. (2) final determination from the Officer, which is to be the date the final determination is deposited in the U.S. Mail.

**VI. Appeal of Township's Determination**

1. If a written request for access to a record 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 Township's response or within fifteen (15) business days of a deemed denial. 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 delaying or denying the request.
2. The Office of Open Records has established an Internet website with information relating to the Act, including information on fees, advisory opinions and decisions, plus the name and address of all Open-Records Officers in the Commonwealth of Pennsylvania. For information on the Office of Open Records, please go to <http://openrecords.state.pa.us>. (Please note: among other matters, the Office of Open Records shall establish fees for duplication by photocopying, printing from electronic media or microfilm, copying into electronic media, and other means of duplication).

**VII. Retention of Records**

By adoption of Resolution 95-R-31, the Township publicly declared its intention to follow the Municipal Records Act, 53 Pa. C.S.A. § 1381 et seq., with respect to the retention and disposition of public records. Nothing in the Act shall be construed to modify, rescind or supersede the Township's lawfully adopted record retention and disposition policy. Moreover, nothing in the Act shall be construed to require access to any computer of the Township, or that of an individual or employee of the Township.

**Issued By:**



Thomas G. Vernau, Jr.  
Township Manager

**Distribution:**

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