NORTH WHITEHALL TOWNSHIP
LEHIGH COUNTY, PENNSYLVANIA
RESOLUTION NO. 07-08-24E

A RESOLUTION MODIFYING NORTH WHITEHALL TOWNSHIP'S OPEN RECORDS POLICY

WHEREAS, the Board of Supervisors of North Whitehall Township recognizes the importance of transparency and the public's right to access government records; and

WHEREAS, Act 3 of 2008, known as the Pennsylvania Right-To-Know Law, requires local agencies to provide access to public records, ensure the preservation of record integrity, and manage the financial impact associated with processing public record requests; and

WHEREAS, the Township's current RTKL policy needs to be updated to comply with recent amendments and decisions interpreting the Pennsylvania Right-To-Know Law and to improve the efficiency and effectiveness of responding to public records requests; and

WHEREAS, the Board of Supervisors desires to repeal Resolution No. 01-15-03 to establish a revised and comprehensive Right to Know Law Policy that aligns with state requirements and best practices; and

WHEREAS, the Township is committed to providing clear procedures for public access to records, designating an Open Records Officer, and outlining the responsibilities and processes for handling requests and appeals under the RTKL; and

WHEREAS, the updated RTKL policy will enhance the Township's ability to serve its residents by ensuring timely and organized responses to public record requests, while also safeguarding sensitive and exempt information.

SECTION 1: PURPOSE

The purpose of the North Whitehall Township Right to Know Law Policy (the "Policy") is to assure compliance with Act 3 of 2008, the Pennsylvania Right-To-Know Law, as amended; to provide access to public records of North Whitehall Township (the "Township"), to preserve the integrity of the Township's records, and to minimize the financial impact to the Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

SECTION 2: PUBLIC RECORDS

A "Public Record" is defined as any record, including financial records, of a Commonwealth or local agency that is not exempt under Section 708 of Act 3 of 2008, is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree, or is not protected by a privilege or exemption.

Records are also information, regardless of physical form or characteristics, that document a transaction or activity of an agency and that is created, received, or retained pursuant to law or in connection with a transaction, business, or activity of the Township. The term includes a document, paper, letter, map, book, tape, photograph, e-mail, text message, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

A "Police Record" is defined as any record – either criminal or non-criminal – in the care of the Township that is created or maintained by the Township that is not exempt under Section 708 of Act 3 of 2008, is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree or is not protected by a privilege or exemption.

SECTION 3: INSPECTION

As soon as practical, all documents deemed public records shall be available for inspection. Certain public records may take time to gather, review, log, redact (if necessary), and duplicate. These records will typically be provided within five business days of the request unless there is a need for an extra thirty calendar day extension.

SECTION 4: DESIGNATED OPEN RECORDS OFFICER

The Township designates the Township Secretary as the Agency Open Records Officer (the "AORO") responsible for handling all open records requests. No other Township officials, employees, or contractors shall be designated as AOROs or hold similar titles. The AORO has the authority to designate other employees or third parties to help process requests for accessing public records.

The AORO may be reached at:

North Whitehall
Attn: Township Secretary
3256 Levans Road
Coplay, Pennsylvania 18037
Telephone: 610-799-3411
Fax: 610-799-9639
Email: openrecords@northwhitehall.org

Upon receipt of an open records request, the AORO shall:

1. Note the date of receipt on the written request.
2. Compute the day on which the five-business day period will expire and make a notation of that date on the written request.

3. Maintain an electronic or paper copy of a written request, including all documents submitted with the request, until the request has been fulfilled. If the request is denied, the written request shall be maintained for thirty days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

SECTION 5: OPEN RECORDS REQUEST

Requests for access to records must be made in writing, email, in person, or facsimile by a legal resident of the United States and to the Township's AORO on the Commonwealth's Right-To-Know request form. A copy of the Commonwealth's Right-To-Know request form is attached hereto, made a part hereof and identified as Exhibit "A". The Township will only accept written requests submitted in person, by mail, by e-mail, or by facsimile. Requests submitted by any other means will not be accepted. All written requests must 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, mailing address and contact information to which the Township should address its response, a request lacking any of these items shall be denied in full. The Township shall not accept anonymous requests, oral requests, or requests not submitted on the Commonwealth's Right-To-Know request form. A request need not include any explanation of the requester's reason for requesting or intended use of the records.

SECTION 6: REDACTION

While the Township will disclose public records subject to access, the Township is not required to synthesize, compile, maintain, format, create, or organize records in response to a request. When a public record exists, the Township will separate and exclude any records which are not public records, or which are otherwise excluded, privileged, or exempted from the definition of public records. If information which is not subject to access is an integral part of a public record and cannot be separated, the Township shall redact from the public record the information which is not subject to access, and the response shall grant access only to the information which is subject to access.

SECTION 7: RESPONSE

The Township shall make a good faith effort to provide the requested public record(s) as promptly as possible. The AORO shall cooperate with those requesting to review and/or duplicate original Township documents while taking reasonable measures to protect Township documents from the possibility of theft, damage, and/or modification. Items protected by copyright or deemed intellectual property may be withheld from duplication and may be subject to in-person review only by the requester.

The AORO shall review all properly submitted requests for access to public records. Within five business days from the date the request is received, the AORO will 1) provide the records requested; 2) deny the request by notifying the requester in writing; or 3) send a written

notice that the records cannot be provided within the five business days. If it is found that the request cannot be fulfilled within five business days, a notice will be given with a specific date indicating when the records will be available. However, this extended timeframe will not exceed thirty calendar days unless agreed to by both the Township and the requester. If the due date falls on a weekend or a Township recognized holiday, the response will be due on the next business day. If no response is made within five business days of receipt of written request, the request shall be deemed denied.

SECTION 8: FEES

Fees for duplication of public records shall be as follows:

a.	Photocopying Per Page	
	i. Black and White Copies (first 1,000)	$0.25
	ii. Black and White Copies (beyond 1,000)	$0.20
	iii. Color Copies	$0.50
b.	Formatted Computer Disk	$1.00
c.	Certification of any document	$5.00 per record
d.	Postage or express mail charges to respond to request for public record by forwarding records to requester	Actual cost incurred by Township
e.	Flash Drive	Actual cost incurred by Township

Fees must be paid by cash, certified check, or money order. Certified checks and money orders must be made payable to: "North Whitehall Township." The Township shall require pre-payment if the total fees are estimated to exceed $100.00. The Township reserves the right to waive fees that it deems are de minimis.

SECTION 9: DENIALS

If The Township denies a written request for information, whether in full or in part, a written response will be sent by the AORO to the requester with 1) a description of the record requested; 2) the specific reasons for denial, including a citation of supporting authority; 3) contact information for the appropriate Open Records Officer; 4) date of response; and 5) procedure to appeal the denial.

The Township shall have the right to deny a requester access to a record if any of the following situations apply:

a. The requester fails to fully comply with the regulations and procedures set forth in this Policy.

b. The requester's refusal to pay applicable fees authorized by the Right-To-Know Law. The Township will not process new requests for access until the requester has paid all applicable fees relating to previous requests.

c. The requested record/document is protected by privilege.

d. The requested record/document is exempt from disclosure under any federal or state law, regulation or judicial order or decree.

e. The requested record/document is a disruptive request which places an unreasonable burden on the Township. Repeated requests for the same document will be deemed disruptive.

f. When timely access is not possible due to fire, flood or other disaster.

g. The record is exempt from access by a requester under the Pennsylvania Right-To-Know Law (Act 3 of 2008).

h. Denial of the request for access is authorized by state or federal statute or case law.

SECTION 10: CONTACT INFORMATION FOR APPEALS

If a written request is denied or deemed denied, the requester may file an appeal in writing. Information on filing an appeal shall be listed in the correspondence from the Township.

Appeals of denials related to requests for records other than criminal records must be directed to the Pennsylvania Office of Open Records:

Office of Open Records
333 Market Street, 16th Floor
Harrisburg, Pennsylvania 17101-2234
Appeals can also be filed online at the Office of Open Records website, https://www.openrecords.pa.gov.

Appeals of denials related to requests for criminal records must be directed to the District Attorney of Lehigh County:

District Attorney of Lehigh County
455 Hamilton Street
Allentown, Pennsylvania 18101.

SECTION 11: APPEALS PROCESS

The appeal shall be filed within fifteen business days of the date of the Township's response or within fifteen business days of a deemed denial. The requester must wait for a period of three mailing days from the date they should receive the Township's response before filing an appeal. Failing to observe this waiting period will lead to the Office of Open Records rejecting the appeal on the grounds of being untimely. The appeal shall state the grounds upon which the requester asserts the record is a public record, a copy of the original request, and shall address any grounds stated by the Township for denying the request.

SECTION 12: POSTING OF OPEN RECORDS REGULATIONS

The following information shall be posted at the Township's building of operations and on the Township's website: 1) contact information for the AORO 2) the form to be used to file a request; and 3) the regulations contained in this Policy for processing requests to examine and/or copy public records maintained by the Township.

SECTION 13: REPEALER

All Resolutions or parts of Resolutions in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict.

SECTION 14: EFFECTIVE DATE

This Resolution shall take effect immediately and shall remain in effect until modified or rescinded by the North Whitehall Township Board of Supervisors.

DULY ADOPTED, this 8th day of July, 2024, by the Board of Supervisors of North Whitehall Township, Lehigh County, Pennsylvania, in lawful session duly assembled.

NORTH WHITEHALL TOWNSHIP
BOARD OF SUPERVISORS

_____
Al Geosits, Chairman

_____
Dennis Klusaritz, Vice Chairman

_____
Jessica Koenig, Township Secretary

_____
Ronald J. Heintzelman, Supervisor