

**EAST GREENVILLE BOROUGH
MONTGOMERY COUNTY, PENNSYLVANIA**

RESOLUTION NO. 2017-07

**A RESOLUTION OF THE BOROUGH OF EAST GREENVILLE,
MONTGOMERY COUNTY, PENNSYLVANIA SETTING PROCEDURAL
RULES FOR COMPLIANCE WITH THE PENNSYLVANIA RIGHT-TO-
KNOW LAW**

WHEREAS, Senate Bill No. 1 (Act 3), today known as the “Right-to-Know Law”, 65 P.S. §67.101 *et seq.* (“RTKL”) was signed into law by Governor Edward G. Rendell on February 14, 2008 and became effective on January 1, 2009; 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 RTKL; and

WHEREAS, Section 504(a) of the RTKL permits an agency to develop policies to implement the RTKL; and

WHEREAS, requests for public records from the Borough of East Greenville (“Borough”) shall be governed by this Resolution and the aforementioned Pennsylvania RTKL.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of East Greenville, Montgomery County, Pennsylvania that the following rules regarding public records are adopted:

SECTION 1. POLICY.

a. Unless otherwise provided by law, a Public Record shall be accessible for inspection and duplication by a Requester. A Public Record shall be provided to a Requester in the medium requested if the Public Record exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public Records shall be available for inspection and copying at the Borough Hall during normal business hours, Monday through Friday, normal business hours, with the exception of holidays.

b. It is the Borough’s policy to require the presence of a designated Borough employee when files are examined by a Requester, and to charge a reasonable and equitable fee for copying Borough files that are deemed to be a Public Record. Such fees are set by Pennsylvania’s Office of Open Records and shall be listed in the Borough’s official Fee Schedule.

SECTION 2.

PROCEDURE FOR ACCESS TO PUBLIC RECORDS.

a. All requests for access to Public Records shall be submitted by the Requester, in writing, on an official Request for Public Information form and delivered via mail, fax, email, or in person. Requests made verbally, non-verbally and anonymously, and not made in writing on an official request form by a Requester, will not be honored and are not eligible to be appealed by said Requester if the Borough denies the request. Request forms are available on the Borough's website at egreenville.org. Acceptable forms are also available at the Pennsylvania Office of Open Records website at openrecords@state.pa.us.

b. Each request shall be addressed to the Borough's Open Records Officer. The request form shall include the Requester's contact information, the date of the request and shall identify or describe the Records sought with sufficient specificity to enable the Borough to ascertain which Records are being requested.

c. Creation of a Public Record. When responding to a request for access, the Borough shall not be required to create a Public Record that does not currently exist nor shall it be required 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.

d. Record of Request. A file shall be maintained for RTKL Requests. Such file shall contain the original request, a copy of the response, a record of communications with the Requester and a copy of other communications.

SECTION 3.

RESPONSE TO WRITTEN REQUESTS.

a. Redaction. If the Borough determines that a Public Record contains information that is subject to access, as well as information that is not subject to access, the Borough's response shall be to grant access to the information that is subject to access, and deny access to the information that is not subject to access. If the information that is not subject to access is an integral part of the Public Record and cannot be separated, the Borough may redact from the Public Record the information that is not subject to access.

b. Borough's Response to Written Requests for Access. Upon receipt of a written request for access to a Record, the Borough shall make a good faith effort to determine if the Record requested is a Public Record, whether the Borough has possession of the same and whether the public record is otherwise exempt and/or protected pursuant to the RTKL. The Borough shall respond as promptly as possible under the circumstances existing at the time of the request, but shall not exceed five (5) business days from the date the written request is received by the Open Records Officer unless an extension is appropriate pursuant to the RTKL. If the Borough fails to send the response within five (5) days of receipt of the written request for access, the written request for access shall be deemed denied unless an extension is otherwise established.

c. Extension of Time. Upon receipt of a written request for access to a Public Record, the Borough 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 Borough 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 Borough'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.

The Open Records Officer shall determine if a timely response to the requested Record cannot be made due to one of the above exceptions. In the event of one or more of the above exceptions, the Borough 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, and a reasonable date that a response can be expected, not to exceed thirty (30) days from such notice. 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.

d. Denial of Request. The Borough may grant a request, partially grant and partially deny a request, or deny a request in its entirety. If the request is denied or partially 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.

e. Appeal Procedure. If the request is denied, partially 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 RTKL within fifteen (15) business days of the mailing date of the Borough's response or deemed denial. The Appeal shall proceed in accordance with the Pennsylvania RTKL. 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 Borough for denying or delaying the request.

SECTION 4. OPEN RECORDS OFFICER.

The Borough hereby designates the Borough Manager and/or Secretary as the Open Records Officer in accordance with the Pennsylvania RTKL and said Open Records Officer shall receive requests submitted to the Borough under the RTKL, direct requests to other appropriate persons within the Borough or to appropriate persons in another agency, track the Borough's progress in responding to requests and issue interim and final responses. The Open Records Officer shall also be charged with the responsibility of providing Borough Council with a copy of each Request that is received by the Borough and each subsequent Borough response to each Request.

SECTION 5. 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 Borough Council that the remainder of the Resolution shall remain in full force and effect.

SECTION 6. REPEALER.

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

SECTION 7. EFFECTIVE DATE.

This Resolution shall take effect immediately upon enactment.

RESOLVED, this 25th day of April, 2017.

BOROUGH OF EAST GREENVILLE

By: Tracey Hunsinger
Tracey Hunsinger, Council President

ATTEST:

Sharon Kachmar
Sharon Kachmar, Secretary