

RESOLUTION NO. 12-08-08.01

A RESOLUTION OF
THE TOWN OF BLOOMSBURG
SETTING FORTH A POLICY REGARDING
REQUESTS FOR PUBLIC RECORDS
PURSUANT TO THE RIGHT TO KNOW LAW

WHEREAS: Act 3 of 2008 was signed into law on February 14, 2008, amending the Right to Know Law and requiring municipal subdivisions and authorities to adopt a policy implementing the provisions and requirements of the law no later than January 1, 2009; and

WHEREAS: The Town of Bloomsburg is an “agency” as defined by the “Right to Know Law” as amended; and

WHEREAS: The purpose of this resolution is to set forth a policy regarding requests for public records made to the Town of Bloomsburg pursuant to the Right to Know Law; and

NOW THEREFORE, BE IT RESOLVED BY the Council of the Town of Bloomsburg and it is here resolved by the authority of same:

Section 1. Definitions

The following words and phrases when used in this resolution shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Town” The Town of Bloomsburg

“Administrator” The Administrator or Acting Administrator of the Town of Bloomsburg

“Public Record” Any account, voucher or contract dealing with the receipt or disbursement of funds by the Town of Bloomsburg or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by the Town of Bloomsburg fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons: Provided, that the term “public records” shall not mean any report, communication or other paper, the publication of which would disclose the institutions progress or result of an investigation undertaken by the Town of Bloomsburg in the performance of its official duties; it shall not include any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the

publication of which is prohibited, restricted or forbidden by statute, law, or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Town of Bloomsburg of federal funds, excepting there from however the record of any conviction for any criminal act.

- "Record" Any document maintained by the Town of Bloomsburg, in any form, whether public or not.
- "Requester" A person who is a resident of the Commonwealth of Pennsylvania and requests a record pursuant to this act.
- "Response" Access to a record or the Town's written notice granting, denying or partially granting and partially denying access to a record.
- "Town Council" The Town Council of the Town of Bloomsburg

Section 2. Open Records Officer

The Town Council hereby designates the Town Administrator and/or Secretary to serve as the Open Records Officer in accordance with the Pennsylvania Right-to-Know. The Open Records Officer shall execute requests for information or shall oversee requests are fulfilled by the appropriate department or agency. The Office Assistant shall be designated as the Alternate Open Records Officer in the absence of the Town Administrator.

Section 3. Procedure for Access to Public Records of the Town

(a) General Rule:

Unless otherwise provided by law, a public record of the Town of Bloomsburg shall be accessible for inspection and duplication by a requester in accordance with this resolution. 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 access during the regular business hours of the Town of Bloomsburg. Nothing in this Act shall provide for access to a record, which is not a public record.

(b) Requests:

The Town will not fulfill verbal requests for access to records and anonymous requests for access to records. In the event that the requester wishes to pursue the relief and remedies provided for in The

Right to Know Law, the requester must initiate such relief with a written request. ***All requests for records must be in writing.**

(c) **Written Requests:**

A written request for access to records may be received in person, by mail, by facsimile or by electronic means. A written request shall be addressed to the *Open Records Officer* of the Town of Bloomsburg, 301 East Second Street, Bloomsburg, Pennsylvania, 17815. Written requests should identify or describe the records sought with sufficient specificity to enable the Town to ascertain which records are being requested and shall include the name and address to which the Town should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records.

(d) **Creation of a Public Record:**

When responding to a request for access, the Town shall not be required to create a public record which does not currently exist or to compile, maintain, format or organize a public record in a manner in which does not currently compile, maintain, format or organize the public record.

(e) **Conversion of an Electronic Record to Paper:**

If a public record is only maintained electronically or in other non-paper media, the Town shall, upon request, duplicate the public record on paper when responding to a request for access in accordance with this resolution.

Section 4. Access to Public Records

The Town may not deny a requester access to a public record due to the intended use of the public record by the requester.

Section 4.2 Redaction

If the Town determines that a public record contains information, which is subject to access as well as information, which is not subject to access, the Town's response shall grant access to the information, which is subject to access, and deny access to the information, which is not subject to access. If the information which is not subject to access is an integral part of the public record and cannot be separated, the Town shall redact from the public record the information which is not subject to access and the response shall grant access to the information which is subject to access. The Town may not deny access to the public record if the information, which is not subject to access is able to be redacted. Information, which

the Town redacts in accordance with this subsection, shall be deemed a denial under section 3.3.

Section 4.3 Specific Exemptions

As provided in Act 3 of 2008, specific exemption to the classification of Public Records will allow for denial of the request by the Open Records officer. Records which are exempt from disclosure include, but are not limited to:

- (a) Records which medical, financial, or personal identifiers of individuals;
- (b) Security records including, but not limited to, personal notes, investigation records, and 911 recordings;
- (c) Draft forms of ordinances, resolutions, policies, and other pre-decisional records;
- (d) Records pertaining to in progress legal proceedings or arbitrations;
- (e) Certain historical records deemed unsafe for reproduction;
- (f) Unapproved meeting minutes and minutes pertaining to executive session of the Bloomsburg Town Council or its committees.

Section 4.4 The Town's Response to Written Requests for Access

- (a) General Rule:

Upon receipt of a written request for access to a record, the Town shall make a good faith effort to determine if the record requested is a public record and to 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 Town. If the Town fails to send the response within five (5) business days of receipt of the written request for access, the written request for access shall be deemed denied.

- (b) Exception:

Upon receipt of a written request for access, if the Town determines that one of the following applies:

- (1) the request for access requires redaction of a public record in accordance with section 4.2.
- (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 cannot be accompanied due to bona fide and specified staffing limitations;
- (4) a legal review is necessary to determine whether the record is a public record subject to access under this act;
- (5) the requester has not complied with the Town's policies regarding access to public records; or
- (6) the requester refuses to pay applicable fees.

Then the Town shall send written notice to the requester within five (5) business days of it's receipt of the request notifying the requester that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expected to be provided. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed in subsection (a), the request for access shall be deemed denied.

(c) Denial:

If the Town's response is a denial of a written request for access, whether in whole or in part, a written response shall be issued and include:

- (1) A description of the record requested.
- (2) The specific reason(s) for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for the Town's determination that the record is not a public record shall be included.
- (3) The typed or printed name, title, business address, business telephone number and signature of the public official or public employee on whose authority the denial is issued.
- (4) Date of the response.
- (5) The procedure to appeal the denial of access under this act.

(d) Certified Copies:

The Town may impose fees for duplication of public records by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication which fees shall be the lesser of .25¢ per sheet or the prevailing fee for

comparable duplication services provided by local business entities in the Columbia County Area.

(e) Certification:

The Town may impose a fee of \$10.00 per request 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.

(f) Conversion to Paper:

If a public record is only maintained electronically or in other non-paper media, the Town may impose fees, which shall be limited to .25¢ per paper page or the fee for duplication in the native media as provided by subsection (b) unless the requester specifically requests for the public record to be duplicated in the more expensive medium.

(g) Waiver of Fees:

The Town may waive the fees for duplication of a public record, including, but not limited to, when:

- (1) The requester duplicates the public record; or
- (2) It deems it is in the public interest to do so.

(h) Other Fees/Limitations:

Except as otherwise provided by statute, no other fees may be imposed. A reasonable fee equal to the actual cost shall be imposed if the Town, out of necessity incurs costs not otherwise described in this resolution for complying with the request. However, the Town recognizes it may not impose a fee for its review of a record to determine whether the record is a public record subject to access.

(i) Prepayment:

Prior to granting a request for access in accordance with this act, a requester shall prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100. In no event will any public records or reports be released until requester first pays the Town all fees due and payable.

Section 5. Appeal Procedure

If the request is denied or deemed denied, the requestor 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) days of the mailing date of the Town'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 6. Miscellaneous

(a) The Town may adopt amendments to this resolution which are necessary to implement the provisions and purposes of the public right to know law.

(b) Posting:

A copy of this resolution shall be conspicuously posted at the Town's offices.

Section 7. Repealer

All resolutions or parts resolutions which are inconsistent herewith are hereby repealed specifically including Resolution No. 12-09-02.01.

Section 8. Effective Date

This resolution shall take affect January 1, 2009.

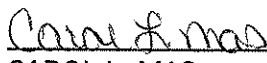
RESOLVED THIS 8th day of December, 2008.

The Town of Bloomsburg:



By: _____
DANIEL D. KNORR, II
Mayor

Attest:



CAROL L. MAS
Town Administrator/Secretary-Treasurer

(SEAL)