

RESOLUTION 2008-39

A RESOLUTION OF THE TOWN COUNCIL OF THE MUNICIPALITY OF KINGSTON, LUZERNE COUNTY, PENNSYLVANIA, A HOME RULE MUNICIPALITY, 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 Municipality of Kingston shall be governed by this Resolution and the aforementioned Pennsylvania Right-To-Know Law.

NOW THEREFORE, be it resolved by the Town Council for the Municipality of Kingston 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 Municipality and shall identify the requested records with sufficient specificity.

SECTION 2. OPEN RECORDS OFFICER

The Municipality hereby designates the Municipal 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 Municipality under the Right-To-Know Law, direct requests to other appropriate persons within the Municipality or to appropriate persons in another agency, track the Municipality’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 Municipality 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 Municipality 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 Municipality 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 Municipality's policies regarding public access.
6. The requester refuses to pay fees.
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 Municipality 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.
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 Municipality's response or deemed denial. The Appeal shall proceed in accordance with the Pennsylvania Right-To-Know Law. 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 Municipality for denying or delaying the request.

SECTION 7. FEE SCHEDULE

The fee schedule for information and/or record requests shall be as set forth in the Fee Structure of the Pennsylvania Office of Open Records pursuant to Section 1307 of the Right-To-Know Law.

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.

ADOPTED at a regular meeting of the Town Council of the Municipality of Kingston, Luzerne County, Pennsylvania, held the 22nd day of December, 2008.

FOR THE TOWN COUNCIL

BY: _____
Sandra Kase, President

ATTEST

Davida Roberts, Secretary

APPROVED:

James J. Haggerty, Mayor

Date: _____