

TOWNSHIP OF HATFIELD
MONTGOMERY COUNTY, PENNSYLVANIA

RESOLUTION NO. 08-24

RE: POLICY FOR RIGHT-TO-KNOW LAW REQUESTS

WHEREAS, the Board of Commissioners is desirous of open and efficient Government in accordance with Pennsylvania Law.

THEREFORE, the Board of Commissioners adopts the following policy to be followed by all Municipal personnel:

OVERVIEW

Act 3 of 2008, adopting amendments to Pennsylvania's Right-to-Know Law, 65 P.S. §§ 66.1-66.9, was enacted on February 14, 2008. Certain amendments became effective immediately (definitions of terms, including the definition of "record" and "public record", as well as the creation of a new state Office of Open Records), while others shall become effective on July 1, 2008 (pertaining to state-related institutions and state contract information). The remaining amendments shall become effective on January 1, 2009. The amendments permit an agency to promulgate regulations and policies necessary to implement the Right-to-Know Law, as amended. The following policy establishes the procedure by which the Township of Hatfield ("Municipality") will address requests made to it for records under the Right-to-Know Law. In accordance with Section 504(b) of Act 3, the following policy shall be posted on the Municipality's website, together with contact information for the newly designated Open Records Officer and the state Office of Open Records and the Municipality's form to be used to submit a request for a public record. Upon release by the Office of Open Records of a uniform

- vii. Include the Requester's signature or, if the Requester is an Agency, include the signature of a person authorized to make the request on behalf of the Agency.

Any failure by a Requester to provide the information set forth herein shall render the request administratively incomplete. The Municipality shall not be required to respond to an administratively incomplete request.

- b. Right-to-Know requests must be sent or delivered to the Municipality by one of the following approved methods of transmission: (1) United States mail, (2) courier, (3) express delivery, (4) overnight delivery, (5) hand-delivery, (6) E-mail, or (7) facsimile. No other form of transmission is permitted.

- c. The Municipality will not accept any verbal requests for Records.

- d. Right-to-Know requests must be sent or delivered to:

Open Records Officer

Township of Hatfield

1950 School Road

Hatfield, PA 19440-1992

- e. Right-to-Know requests received by the Municipality after the close of regular business hours shall be deemed to have been received by the Municipality on the following regular business day. This shall include any facsimile transmission received after regular business hours. The regular business hours of the Municipality are 8:00 a.m. to 4:30p.m.

pursuant to a decision by management, an unanticipated event such as a natural disaster, or at the direction of a local, State, or Federal agency or official. For purposes of determining the end of the five-business-day period, the day a Right-to-Know request is deemed received is not included in that determination. For example, if a Right-to-Know request is received on a Monday, the Municipality's response is not due until the following Monday, assuming there is no intervening holiday or closure of the Municipality offices.

f. If the Open Records Officer determines that any of the following is applicable to a request, he or she shall send written notice (for purposes of this paragraph, the "Notice") to the Requester within five (5) business days of receipt of the request, specifying one of the following with respect to the request:

- i. the request requires redaction of a Record in accordance with Section 706 of Act 3;
- ii. the request requires the retrieval of a Record stored in a remote location;
- iii. a timely Response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- iv. a legal review is necessary to determine whether the Record is a Public Record subject to access under Act 3;
- v. the Requester has not complied with the Municipality's Policy for Right-to-Know Law Requests;
- vi. the Requester refuses to pay applicable fees authorized by Act 3;
or
- vii. the extent or nature of the request precludes a Response within the required time period.

The Notice required under this paragraph shall advise the Requester that the request is being reviewed, state the reason for review, specify a reasonable date by which a

b. If the Open Records Officer determines that the request is appropriate, he or she will so notify the Requester and schedule an appointment to review the Record or Records at a convenient time for both the Open Records Officer and the Requester.

c. A Response that constitutes a full or partial denial of a request will include the following:

- i. A description of the Record requested.
- ii. The specific reasons 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 Municipality's determination that the Record is not a Public Record shall be included.
- iii. The name, business address, business telephone number and signature of the Open Records Officer.
- iv. Date of the Response.
- v. The procedure to appeal the denial of access to the requested Record.

d. If the Open Records Officer does not respond to the request within five (5) business days after a Right-to-Know request is docketed as having been received, a Right-to-Know request shall be deemed to have been denied and the Requester may file an appeal of the deemed denial.

e. The Municipality shall have an additional thirty (30) days (beyond the allotted five-business-day period) to respond to a Right-to-Know request under the following circumstances:

- i. The request for access requires redaction of a Public Record.
- ii. The request for access requires the retrieval of a Record stored in a remote location.

i. To the extent possible, the contents of a Record denied pursuant to subsection g or h of this paragraph shall be made accessible to a Requester even if the Record itself is physically unavailable.

6. Appeal of Municipality's Denial of Access to Record – (Procedural)

a. When a written request for a Record is denied or deemed denied, a Requester may file an appeal with the Office of Open Records pursuant to Section 503(a)(2) of the Act.

b. An appeal of a Response must be filed within fifteen (15) business days of the mailing date of the Response.

c. An appeal of a deemed denial must be filed within fifteen (15) business days of the date the request is deemed denied.

d. Upon receipt of an appeal, the Office of Open Records shall assign an Appeals Officer to review the Response or deemed denial.

e. Any person other than the Municipality or the Requester who has a direct interest in a Record that is the subject of an appeal pursuant to this paragraph may, within fifteen (15) days following receipt of actual knowledge of the appeal, but no later than the date on which the Appeals Officer issues a determination, file a written request to either appear before the Appeals Officer or to provide information in support of the Requester's or Municipality's position. Copies of such request shall be provided to the Requester and the Municipality at the time the request is submitted to the Appeals Officer. The Appeals Officer, upon receipt of such request, may grant the request only if (i) no hearing has

d. The Appeals Officer will issue a final determination and mail such determination to the Requester and to the Township within thirty (30) calendar days of receipt of the appeal unless a different timetable is agreed to by the Requester. If the Appeals Officer fails to issue a final determination within thirty (30) calendar days of receipt of the appeal, the appeal shall be deemed denied.

e. Within thirty (30) days of the mailing date of the final determination of the Appeals Officer, or of the date an appeal is deemed denied, a Requester or the Municipality may file a petition for review or other document as required by rule of court, with the Court of Common Pleas for the county in which the Municipality is located. Any decision issued by such Court shall contain findings of fact and conclusions of law based upon the evidence as a whole and shall clearly and concisely explain the rationale for the decision. The filing of a petition for review or other document with the Court of Common Pleas shall stay the release of a Record until the Court issues a decision.

8. Access to Municipality's Records

a. Providing a requester with physical access to a Record in the Municipality's office is a "Response" for the purposes of the Right-to-Know Law. Only the Municipality has the authority to permit this access. Hours of access shall be 8:00 a.m. to 4:30p.m., Monday through Friday.

b. Only a natural person who is a legal resident of the United States, or an "Agency," as defined in the Right-to-Know Law, is entitled to access to Public Records under the Right-to-Know Law. In determining whether a Requester is a legal resident of

b. Fees for complex and extensive data sets, including geographic information systems or integrated property assessment lists shall be based on the reasonable market value of the same or closely related data sets; provided, however, that such fees shall not be applicable to persons obtaining information for publication or broadcast, or to nonprofit organizations obtaining information for the conduct of educational research, as provided in Section 1307 (b)(4)(ii) of the Act.

c. Fees for conversion of a Record to paper shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original medium, unless the Requester specifically requests that the Record be duplicated in the more expensive medium.

d. The Municipality may establish user fees for the provision of enhanced electronic access to Records, as set forth in Section 1307(e) of the Act.

e. Postage: Fees for postage shall not exceed the actual cost of mailing.

d. The Municipality may impose a reasonable fee for official certification of copies of a Record if requested by the person or Agency who is the Requester, for the purpose of legally verifying the Public Record.

f. The Municipality may waive any applicable fees in circumstances including, but not limited to, the following: (i) when the Requester duplicates the record; or (ii) when the Municipality deems it to be in the public interest to do so.