

RESOLUTION 2008-R-46
(Amended 5-15-2015)

A Resolution to amend and restate procedures governing requests for access to public and financial records and responses to requests, allowing inspection of public and financial records, requests for and provision of copies of public records and financial records and assessment of payment of fees for copies and services and adopting forms for use in implementing the regulations, so as to address amendments to the Right to Know Law effected by Act 3 of 2008.

WHEREAS, the Board of Supervisors by Resolution No. 2002-R-71 adopted on December 17, 2002 established procedures governing submission and consideration of requests for access to public records, including fees for provision of copies and other matters; and

WHEREAS, Act No. 2008-3 enacted by the General Assembly of the Commonwealth of Pennsylvania and effective January 1, 2009 has effected amendments to Pennsylvania's Right to Know Law, now codified at 65 P.S. § 67.101, et seq. (the "Act"); and

WHEREAS, Act No. 2008-3 establishes definition of new terms and new procedures and guidelines for submission of and action upon requests for access to public records, legislative records and financial records as those terms are defined in the Act; and

WHEREAS, Section 1310 of the Act as amended directs establishment of an Open Records Office in the Department of Community and Economic Development (DCED), which Office has been established and has adopted certain forms and fee limitations governing implementation of the Act; and

WHEREAS, the Board of Supervisors has determined that it is necessary and appropriate to amend Millcreek Township's regulations so as to ensure compliance with the Act as amended and to establish administrative procedures for submission and consideration of and response to requests for access.

IT IS HEREBY RESOLVED by the Board of Supervisors of Millcreek Township, Erie County, Pennsylvania as follows:

1. Open-Records Officers.

A. The following persons are hereby designated as Open-Records officers:

- (I) As to records of and within the purview of the Millcreek Township Police Department - Capt. Donald L. Tombaugh, Commander of the Patrol Division. Lieut. Michael Tesore, Commander of the Investigative Services Division, is hereby designated as alternate officer, with duties to receive and, as able, act on requests for access received in the absence of the Open-Records officer.

- (ii) As to all other records of Millcreek Township - Phyllis A. Vollbrecht, Assistant Secretary. Gerald M. Wolf, Treasurer, is hereby designated as alternate officer, with duties to receive and, as able, act on requests for access received in the absence of the Open-Records officer.
- B. Functions of the Open-Records officers shall be as provided in Section 502(b) of the Act, as may be supplemented in this Resolution.
- C. The information specified in Section 504 of the Act shall be posted in the Township Building and set forth on the Township's website, this including:
 - (I) contact information for the open-records officers;
 - (ii) contact information for the Office of Open Records;
 - (iii) a form which may be used to file a request for access; and
 - (iv) the Township's regulations, policies and procedures relating to the Act.
- D. Contact information for the Open-Records officers shall include the officer's mailing address, telephone and telefacsimile numbers and e-mail address.
- E. It is the intention of the Board of Supervisors that the Open-Records officers for the Township and the Police Department be the persons then filling the specified positions. In the event a different person should assume one of the specified persons, that person shall become Open-Records officer or alternate, as the case may be, unless the Board by Resolution determines otherwise.
- F. The absence of the designated Open-Records officer due to vacation, sick leave or personal leave shall constitute a valid reason for extension of time for response to a request under Section 902 of the Act.
- G. The Open-Records officers, their designated alternates or the Township Secretary or the Township's Solicitor shall be authorized to sign and issue responses to requests for access or notices that the time for response to a request must be extended for a reason authorized by Section 902 of the Act.
- H. The Open-Records officer or his or her alternate shall note on each written request the date such written request was received.
- I. In the absence of the Open-Records officer due to vacation or other leave on the date a written request addressed to the Open-Records officer is received:
 - (I) Such written request shall be delivered to the alternate Open-Records officer.
 - (ii) The alternate Open-Records officer shall review the request and determine, initially, whether he or she can make a proper and timely response to the request without involvement of the Open-Records officer.

- (a) If the alternate Open-Records officer can make a proper and timely request, he or she shall do so, maintaining all records of the request and response that are required by the Act and/or by this Resolution.
- (b) If the alternate Open-Records officer cannot make a proper and timely response without involvement of the Open-Records officer, he or she shall issue such notice as is required by Section 902 of the Act to extend the time for response.
- (iii) The alternate Open-Records officer shall maintain a file of all requests received and all actions taken upon such requests by the alternate officer, and shall provide such file and its contents to the Open-Records officer promptly upon the Open-Records officer's return.

2. Requirements as to Requests for Access. In addition to those requirements provided in the Act:

- A. A request for access to, inspection of or for provision of a copy of a public record or a financial record shall identify or describe the record(s) sought with sufficient specificity to enable Millcreek Township to ascertain which record(s) is or are being requested. It shall not be the obligation of the Township, its Open-Records officers or any official or employee to surmise or guess as to those records to which access is sought. See also Section 3(L), below.
- B. Any written request must be made on the Request form adopted as Appendix A-1 to this Resolution or an equivalent.
- C. Any request authorized under Section 4 of this Resolution which cannot be fulfilled immediately shall include the name and address to which the Township should address its response.
- D. The reason for a request and the use to which a record may be applied shall be immaterial.

3. General Regulations - Accessibility of Documents. In addition to those requirements at 65 P.S. § 67.101, et seq., as may in the future be amended:

- A. Public records and financial records shall be available for access during the regular business hours of Millcreek Township (8:00 a.m. to 4:30 p.m.), with the exception of weekends and holidays. When used in this Resolution, the term "public record" is intended to include a "financial record."
- B. A written request for access to a public record may be submitted in person, by mail, by telefacsimile or by email.

- C. A public record shall be provided to a requester in the medium requested if the particular record exists in that medium; otherwise, it shall be provided in the medium in which it exists.
- D. If a public record is only maintained electronically or in some other non-paper medium, the Township, upon request, shall duplicate the public record on paper in responding to a request for access in accordance with the statute.
- E. In responding to a request for access, the Township 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 the Township does not currently compile, maintain, format or organize it.
- F. If the Township determines that a request seeks a record which is not a public record of the Township as defined in the Act, does not exist or is confidential or prohibited against disclosure by applicable law(s), the request for such record(s) shall be denied insofar as any of these determinations apply.
- G. The Township shall have no obligation to provide access to or copies of documents or records which are not public records of Millcreek Township.
- H. If the Township determines that a public record contains information which is subject to access as well as information which is not subject to access, the Township's response to a request shall grant information which is subject to access and deny access to the information which is not subject to access, in accordance with 65 P.S. § 67.706, as may be amended. In such event, if the information which is not subject to access is an integral part of the public record and cannot be separated, the Township shall redact from the record the information which is not subject to access.
- I. If access is requested to what is or may be a substantial quantity of public records, the requester shall be provided an opportunity to inspect files, books or other records containing the same and, upon such review, to make a proper written request for copies of such public records as are desired.
- J. Oral or verbal requests for access to or copies of public records shall be allowed only as authorized in Section 4 of this Resolution.
- K. Anonymous requests for access to or copies of public records are not authorized.
- L. It shall not be the obligation of the Township, its officers or employees to research or review Township records to ascertain what might be sought by a requester whose request does not identify or describe records sought with specificity sufficient to enable the Township to determine those records being requested and whether the same constitute public records.

- (I) As examples, a request for access to “all” records which might relate to a general subject does not enable the Township to identify particular records sought, while a request for access to all building permits issued as to a particular property or all documents involved in a particular development is sufficiently specific.
- (ii) If a request is received which does not comply with the requirements of the statute or of this Resolution, the request shall be denied insofar as it fails to provide sufficient detail; provided that -
 - (a) If a request in part provides sufficient specificity as to records requested and in part fails to do so, the Township shall allow access to public records sufficiently described and limit its denial to the portion(s) of the request not providing sufficient detail;
 - (b) If a request does not provide detail as to an ordinance, minutes of meetings of the Board of Supervisors, resolution or other public record retained on site by the Township but indicates that the requested record is within such general files, the Township shall make general files available to the requester for his or her inspection.
- M. If a public record exists that is not in the Township’s possession but is in the possession of a party with whom the Township has contracted, a request for access to such record shall be made to the Township.
- N. Public records shall be available for inspection at the Municipal Building, and an employee of the Township should be present during an inspection to ensure preservation of records.
- O. Except as otherwise provided in this Resolution, a request for copies of public records shall be accompanied by payment of the fees therefor as established in this Resolution, and as may be amended in the future. Such request, and payment of fees, may be made after inspection of records and identification by the requester of those copies desired. In such cases, the Township shall not make copies of public records until such fees have been paid by the requester.

4. Certain Oral or Verbal Requests Authorized. In circumstances as authorized in this Section, the Township shall respond to verbal or oral requests for access to or copies of public records:

- A. Copies of agendas for next scheduled meetings of the Board of Supervisors, the Planning Commission, the Zoning Hearing Board and other boards or commissions of the Township shall be available for review and inspection. All Township departments, boards and/or commissions shall provide to the Assistant Secretary copies of next scheduled meeting's agenda immediately upon their preparation. Oral or verbal requests to review or obtain a single copy of such agenda(s) may be made to the department responsible for such board's administration or to the Assistant Secretary.
- B. Copies of proposed resolutions, ordinances, budgets and other matters which have been advertised or are set forth to be considered at a scheduled meeting of the Board of Supervisors shall be available for review and inspection. Requests to review or inspect such documents shall be made to the Assistant Secretary.
- C. Requests to review or inspect pending applications for subdivision or land development may be made orally to the Engineering Department.
- D. Requests for copies of a single pending or approved subdivision or land development plan may be made orally to the Engineering Department, and shall be honored as soon as is practicable with consideration for the Department's ongoing responsibilities.
- E. Requests to review or inspect pending petitions for rezoning or pending applications to the Zoning Hearing Board may be made orally to the Zoning Department.
- F. Requests for copies of a single pending petition for rezoning or a single pending application to the Zoning Hearing Board may be made orally to the Zoning Department, and shall be honored as soon as is practicable with consideration for the Department's ongoing responsibilities.
- G. Requests for a copy of the Subdivision and Land Development Ordinance, the Stormwater Management Ordinance and/or the Public and Private Improvements Code may be made orally to the Engineering Department.
- H. Requests for a copy of the Zoning Ordinance or of the official map may be made orally to the Zoning Department.
- I. Requests for a copy of the Comprehensive Plan may be made orally to the Assistant Secretary.

- J. Requests to inspect or obtain a copy of the requester's billing account records for water line, street lighting, hydrant, realty transfer tax, sewer rental or other Township assessment or claim may be made orally to the department or employee of the Township responsible for such matters
- K. When a citizen is discussing a particular matter with an authorized employee of the Township at the Municipal Building and a public record not specifically addressed above becomes a subject of the discussion, the citizen upon oral request may obtain a copy of such public record.
- L. Oral requests authorized in this Section shall be subject to payment of fees as provided for copies in this Resolution.
- M. Authorization of oral or verbal requests in this Section shall not entitle a person to request a substantial volume of documents or to submit oral or verbal request for public records other than as authorized in this Section.
- N. Township personnel shall respond to oral or verbal requests authorized in this Section as promptly as is practical in the circumstances.

5. Submission of Written Requests. Written requests for access to public records of the Township shall comply with requirements established in the Right-to-Know Law and this Resolution and shall be addressed and delivered:

- A. As to records of and within the purview of the Police Department, to the Millcreek Township Police Department, Attention: Open-Records Officer, 3608 West 26th Street, Erie, PA 16506-2037.
- B. As to records of Millcreek Township other than its Police Department, to Millcreek Township Open-Records Officer, Attention: Assistant Secretary, 3608 West 26th Street, Erie, PA 16506-2037.
- C. Written requests shall be on a form provided by the Township which shall substantially conform to and include all of that information set forth on Exhibit "A-1" to this Resolution.
- D. If written request is received by a Township official or employee other than that to whom requests are to be submitted, he or she shall immediately transmit the request to the proper Open-Records officer.
- E. The date of receipt by the proper Township or Police Department Open-Records officer of a written request shall be noted immediately on the request, and shall govern for purposes of responding to the request.

6. Response to Written Requests. The Township will make a good faith effort to provide access to public records as promptly as is practicable, and in accordance with the requirements of 65 P.S. § 67.901, et seq.

- A. Township employees shall cooperate with the Open-Records officers designated in this Resolution to receive and respond to written requests, so that existence and nature of documents can be ascertained promptly while taking reasonable measures to protect Township documents from the possibility of theft, damage and/or modification.
- B. Except in circumstances set forth in 65 P.S. § 67.902, as may be amended, the assigned official shall, in writing, respond to the written request within five (5) business days after the date of the request's receipt.
- C. If the Township's response is the grant of a written request for access, the appropriate Open-Records officer shall issue to the requester a written notice, this notice to be substantially in the form of the specimens attached to this Resolution as Appendix A-2 and A-2(1).
- D. If the Township's response is denial of a written request for access, the appropriate Open-Records officer shall issue to the requester a written notice, this notice to be substantially in the form of that specimen attached to this Resolution as Appendix A-3 and which must include those matters required by Section 903 of the Act.
- E. If the Township's response is partial grant and partial denial of a written request for access, the appropriate Open-Records officer shall issue to the requester a written notice, this notice to be substantially in the form of that specimen attached to this Resolution as Appendix A-4 and which must include, as to the partial denial, those matters required by Section 903 of the Act.
- F. Forms and procedures adopted above for use in response to written requests under the Act may be used by the Open-Records officer to respond to oral requests for access.
- G. The Township, its officials, department heads and employees shall continue and build upon the practice of making available on the Township's website matters of information for the benefit of the public, including matters which do or may constitute public records and financial records. This practice is intended to provide information to the public and to reduce the need for requests for access to records and responses to them.
- H. Where a request is received for access to a record which is available on the Township's website, the response of the Open-Records officer or other employee of the Township shall note the availability of the record on the website for access and downloading.

7. Appeals Process. If a written request for access is denied or deemed denied, the requester may file within (15) business days after the mailing date of the Township's response or a deemed denial an appeal from the decision under Sections 1101 and 1102 of the Act, as follows:

- A. Appeal of decisions pertaining to criminal records shall be made to the District Attorney of Erie County, Erie County Court House, 140 West Sixth Street, Erie, PA 16501.
- B. Appeal of decisions pertaining to all other records shall be made to the Executive Director (as of the date of this Resolution, Terry Mutchler), Office of Open Records, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0225.

8. Fee Schedule. A schedule of fees for copies and services pertinent to responding for requests pursuant to this Resolution as attached hereto as Appendix B and is hereby adopted. The Board of Supervisors by Resolution may amend said fee schedule. Color photocopying shall be done and available only on equipment having capacity to do so. Charges for matters not specifically detailed in the fee schedule shall be equal to their actual cost.

9. Effective Date. This Resolution shall become effective on January 1, 2009. This Resolution supersedes and is intended to repeal Resolution No. 2002-R-71.

ADOPTED this 23rd day of December, 2008.

MILLCREEK TOWNSHIP SUPERVISORS

Brian P. McGrath

Lawrence G. Curtis

Joseph S. Kujawa

MILLCREEK TOWNSHIP
3608 West 26th Street
Erie, PA 16506-2059

RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED: _____

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTER : _____

STREET ADDRESS : _____

CITY/STATE/ZIP/COUNTY: _____

TELEPHONE (Optional): _____ **E-MAIL** _____
(Provide if response by email requested)

RECORDS REQUESTED:

**Provide as much specific detail as possible so the Township can identify the specific records. Include attachment if needed.*

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT COPIES? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO (COST IS \$1 PER RECORD)

(TOWNSHIP USE ONLY)

RIGHT TO KNOW OFFICER: _____

DATE RECEIVED BY THE TOWNSHIP: _____

TOWNSHIP'S FIVE (5)-DAY RESPONSE DUE: _____ **RESPONSE DATE:** _____

REQUEST GRANTED ___ **DENIED** ___ **GRANTED/DENIED IN PART** ___

DATE OF INSPECTION OF DOCUMENTS: _____ **DATE DOCUMENT COPIES PROVIDED** _____

COSTS: **COPIES** \$ _____ **POSTAGE** \$ _____ **OTHER** \$ _____ **TOTAL** \$ _____

*If the requester wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (65 P.S. § 67.702).
Written requests need not explain why information is sought or how information will be used unless otherwise required by law. (65 P.S. § 67.703).*

MILLCREEK TOWNSHIP
3608 West 26th Street
Erie, PA 16506-2059

Date:

Dear _____:

Thank you for writing to Millcreek Township with your request for information pursuant to Pennsylvania's Right-to-Know Law.

On _____ [date received by Township], you requested [describe or restate information requested].

Your request is granted and copies of the documents identified in your request are enclosed.

Respectfully,

Right-to-Know Officer Name [typed]:

Title [typed]:

Business Address [typed]:

Business Telephone [typed]:

MILLCREEK TOWNSHIP
3608 West 26th Street
Erie, PA 16506-2059

Date:

Dear _____:

Thank you for writing to Millcreek Township with your request for information pursuant to Pennsylvania's Right-to-Know Law.

On _____ [date received by Township], you requested access to [describe or restate information to which access was requested].

Your request is granted. Please contact me to arrange a date and time for you to inspect the documents. The Township's normal business hours are from 8:00 a.m. to 4:30 p.m. Mondays through Fridays, excepting holidays.

If, after you have inspected the documents, you wish to obtain copies, please then make the request and copies will be provided. Fees for copies are established by Resolution adopted by the Board of Supervisors.

Respectfully,

Right-to-Know Officer Name [typed]:

Title [typed]:

Business Address [typed]:

Business Telephone [typed]:

MILLCREEK TOWNSHIP
3608 West 26th Street
Erie, PA 16506-2037

Date:

Dear _____:

Thank you for writing to Millcreek Township with your request for information pursuant to Pennsylvania's Right-to-Know Law.

On [date received by Township], you requested [describe or restate information requested]. Your request is denied for the following reason(s), as permitted by Section 708 of the Right-to-Know Law.

The Township has denied your request because [describe specific type of information] is exempt from access and disclosure under Section 708(____) of the Law. [or specific provision of other law]

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120 for all records other than criminal records. If your request pertained to criminal records, an appeal is to be filed in writing with District Attorney John H. Daneri, Erie County Court House, 140 West Sixth Street, Erie, PA 16501.]

If you choose to file an appeal, you must do so within 15 business days of the mailing date of the Township's response [65 P.S. § 67.1101]. If you have further questions, please call the office to which an appeal is to be submitted. Please be advised that this notice serves to close this record with our office, as permitted by law.

Respectfully,

Right-to-Know Officer Name [typed]:
Title [typed]:
Business Address [typed]:
Business Telephone [typed]:

MILLCREEK TOWNSHIP
3608 West 26th Street
Erie, PA 16506-2037

Date:

Dear _____:

Thank you for writing to Millcreek Township with your request for information pursuant to Pennsylvania's Right-to-Know Law.

On _____ [date received by Township], you requested _____ [describe or restate information requested]. Your request is granted in part and denied in part. Those documents as to which access is granted are enclosed. These include: _____.

However, the Township has withheld information that is exempt from disclosure under the Law. [detail basis for exemption under Section 708 or other law and/or redaction under Section 706]

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120 or, if your request pertained to criminal records, in writing to District Attorney John H. Daneri, Erie County Court House, 140 West Sixth Street, Erie, PA 16501.

If you choose to file an appeal, you must do so within 15 business days of the mailing date of the Township's response [65 P.S. § 67.1101]. If you have further questions, please call the office to which an appeal is to be submitted. Please be advised that this notice serves to close this record with our office, as permitted by law.

Respectfully,

Right-to-Know Officer Name [typed]:

Title [typed]:

Business Address [typed]:

Business Telephone [typed]: .

FEE SCHEDULE *Amended May 12, 2015*
PUBLIC RECORDS ACCESS AND PRODUCTION

Millcreek Township Police Department

Accident Report Copies/Criminal Report Synopsis	\$15.00 each
Criminal History or Employment Checks	\$10.00
Fingerprinting:	
Millcreek residents and persons required by their employer in Millcreek to be finger-printed	\$15.00
All other persons	\$40.00

All Other Township Departments

Single copy of agenda of next scheduled meeting	No charge
First 5 pages or sides of 8½" x 11" paper copies	No charge *
8½" x 11" photocopies	\$ 0.25
- B&W per page or side	
- color per page or side	\$ 0.75
11" x 17" photocopies	\$ 0.50
- B&W per page or side	
- color per page or side	\$ 1.00
18" x 24" photocopies	\$ 3.00
- B&W per page or side	
- color per page or side	\$ 5.00
24" x 36" photocopies	\$ 4.00
- B&W per page or side	
- color per page or side	\$ 6.00
36" x 72" photocopies	\$ 6.00
- B&W per page or side	
- color per page or side	\$ 8.00
Subdivision & Land Development Ordinance (per copy)	\$30.00
Comprehensive Plan (per copy)	\$30.00
Zoning Ordinance (per copy)	\$25.00
Public & Private Improvements Ordinance (per copy)	\$25.00
Stormwater Management Ordinance (per copy)	\$15.00
Certified copy, per record	\$ 1.00
CD-ROM (where records provided in this format), per each	\$ 2.50 + 20¢/record
Other media on which records provided	Actual cost +20¢/record

General: Actual fees for postage and other costs of response shall be charged.
If records provided on another medium, fee equals actual cost + \$0.10 per page provided.
If estimated cost of copies will exceed \$100.00 and/or records to be mailed to the requester, prepayment of fees and costs will be required.

* This applies only once per person within a 7-day period.