

RESOLUTION NO. 2002-30

A RESOLUTION ESTABLISHING POLICIES,  
PROCEDURES, AND FEES FOR REQUESTS FOR  
INSPECTION AND DUPLICATION OF PUBLIC  
RECORDS.

WHEREAS, the Pennsylvania Right-to-Know Act has been rewritten by Act  
100 of 2002; and

WHEREAS, said Act takes effect December 26, 2002; and

WHEREAS, Act 100 of 2002 requires every municipality to make available  
to any citizen all public records of the township; and

WHEREAS, townships may establish policies, procedures and fees for the  
inspection and duplication of public records.

**THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:**

**1. DEFINITIONS.**

- A. "Act." The Right-to-Know Act; No. 100 of 2002.
- B. "Public Record." Any account, voucher or contract dealing with the disbursement of funds by an agency or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by an agency fixing the person 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 institution, progress or result of an investigation undertaken by an agency in the performance of its official duties, except those reports filed by agencies pertaining to safety and health in industrial plants; 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 Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, excepting therefrom however the record of any conviction for any criminal act.

- C. "Record." Any document maintained by an agency, in any form, whether public or not.
- D. "Requester." A person who is a resident of the Commonwealth and requests a record pursuant to this act.
- E. "Response." Access to a record or an agency's written notice granting, denying or partially granting and partially denying access to a record.
- F. "Township." East Cocalico Township, County of Lancaster and Commonwealth of Pennsylvania.

2. Every public record of the Township shall, at reasonable times, be open for examination and inspection by any citizen of the Commonwealth of Pennsylvania.

3. Unless otherwise provided by law, a public record shall be accessible for inspection and duplication by a requester in accordance with this act. 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 Township.

- A. All requests for inspection or duplication by the requester of public records shall be made in writing: faxed, delivered or mailed to East Cocalico Township, Attention: Township Manager, 100 Hill Road, Denver, Pennsylvania 17517.
- B. Public Records will be available for inspection only during normal business hours of the Township (Monday through Friday, 8:30 a.m. until 4:30 p.m., excluding holidays) and at such times as are convenient and non-disruptive to the normal operations of the Township.
- C. The written request shall describe the public record in sufficient detail to enable the Township's personnel to locate the Record with a reasonable amount of effort; shall indicate whether an inspection or duplication is desired; and shall indicate the date and time when such inspection is desired. All such requests shall be signed by the person making the request. The written request shall also include the name and address to which the Township should address its response.
- D. When 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 the public record.

- E. 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 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 Township shall redact from the public record the information which is not subject to access and the response shall grant access to information which is subject to access. The Township may deny access to the public record if the information which is not subject to access is able to redacted. Information which the Township redacts in accordance with this section shall be deemed a denial.
- F. Upon the receipt of a written request for access to a Record, the Township 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 Township. If the Township 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.
- G. Upon the receipt of a written request for access to a Record; if the Township determines that one of the following applies:
  - (i) The request for access requires redaction of a Public Record in accordance with the Act; (ii) The request for access requires the

retrieval of a Record stored in a remote location; (iii) A timely response to the request for access cannot be accompanied due to bonafide and specified staffing limitations; (iv) A legal review is necessary to determine whether the Record is a Public Record subject to access under this Act; (v) The Requester has not complied with the Township's policies regarding access to Public Records; and (vi) The Requester refuses to pay applicable fees: Then in that event, the Township shall send written notice to the Requester within five (5) business days of the Township'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 thirty (30) days following the five (5) business days, the request for access shall be deem denied.

H. In the event that the Township'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: (i) A description of the record requested; (ii) The specific reason 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 Township's determination that the Record is not a Public Record shall be included; (iii) The typed or printed name, title, business address, business telephone and signature of the public official or public employee on whose authority the denial is issued; (iv) Date of the response; and (v) The procedure to appeal the denial of access under this Act.

4. If the Township grants a request for access, the Township shall, upon request, provide the Requester with a certified copy of the Public Record, if the Requester pays the applicable fees.

5. If a written request for access is denied or deemed denied, the Requester may file exceptions with the Township Supervisors denying the request for access within fifteen (15) business days of the mailing date of the Township's response or within fifteen (15) days of a deemed denial. The exception shall state grounds upon which the Requester asserts that the Record is a Public Record and shall address any grounds stated by the Township delaying or denying the request.

6. The Township Supervisors shall make a final determination regarding the exceptions within thirty (30) days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the Township Supervisors may conduct a hearing. The determination shall be the final order of the Township. If the Township Supervisors determines that the Township correctly denied the request for access, the Township shall provide a written explanation to the Requester for the reason for the denial.

7. The following fees must be paid prior to the receipt of duplicated Public Records:

- A. The fee for postage shall be the actual fees involved in the cost of mailing;
- B. A charge of \$.25 per page, per copied side shall be due for the duplication of Public Records which are made on Township copiers;

C. A charge of \$.75 per side, per page for local facsimile transmittal and a charge of \$1.50 per side, per page for long-distance facsimile transmittals;

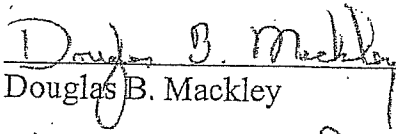
D. In the event that the Township receives a request to reproduce a Public Record that cannot be made on the Township office copiers, a fee equal to the Township's direct cost for such reproduction shall be paid by the Requester. Any Public Records removed from the Township office shall remain in the control of either a Township employee or an appointed official of the Township. Public Records will not be given to the general public to be reproduced either on the Township copiers or on a copier located outside of the Township office; and

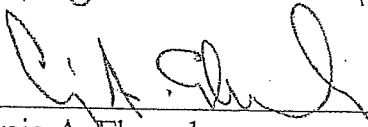
E. The fee for certifying each Record shall be \$10.00.

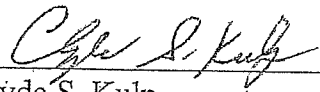
8. In the event that time is spent by the Township staff searching for the requested Public Records, a fee of \$10.00 per hour shall be paid for time taken by the Township staff searching for the Public Records. This fee shall be in addition to those fees specified in Section 7 of this Resolution. A minimum charge of one-half hour shall be due for search time for the Public Records.

RESOLVED this 21<sup>st</sup> day of November, 2002.

**EAST COCALICO TOWNSHIP**

  
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Douglas B. Mackley

  
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Craig A. Ebersole

  
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Clyde S. Kulp