

**ORDINANCE NO. 1619
OF THE
BOROUGH OF GREEN TREE
ALLEGHENY COUNTY, COMMONWEALTH OF PENNSYLVANIA**

AN ORDINANCE OF THE BOROUGH OF GREEN TREE, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, REPEALING SECTION 210.07 OF TITLE TWO, PART TWO, OF THE CODIFIED ORDINANCES OF THE BOROUGH OF GREEN TREE AND ADOPTING IN ITS PLACE A NEW CHAPTER UNDER AND PURSUANT TO ACT 3 OF 2008, TO BE KNOWN AS THE RIGHT TO KNOW LAW.

WHEREAS, the Commonwealth of Pennsylvania adopted Act 3 of 2008 (the Act) thereby requiring the Borough of Green Tree to repeal its existing Right to Know Act and to adopt a new chapter complying with the said Act.

NOW, THEREFORE, the Borough of Green Tree hereby ordains as follows:

Section 1. In accordance with Act 3 of 2008, as amended (hereinafter the "Act") adopted by the Commonwealth of Pennsylvania, Council of the Borough of Green Tree hereby repeals in its entirety Section 210.07 of Title Two, Part Two, of its Codified Ordinances, and hereby adopts the following Chapter in its place to be known as "The Right to Know Law."

Section 2. Open-Records Officer

A. The following official is hereby designated as the Open-Records Officer, at the following address:

Borough Manager
Borough of Green Tree
10 West Manilla Avenue
Green Tree, PA 15220

B. The Borough Manager may designate one or more employees to serve in his place during any period of absence or non-availability.

Section 3. Hours and Place of Access

A. Public records shall be available for access during regular business hours of the Borough of Green Tree.

B. Records of the Borough of Green Tree shall generally be made available at the business office of the Borough of Green Tree at 10 West Manilla Avenue, Green Tree, PA 15220.

Section 4. Request Requirements

- A. All requests for access to public records shall be in writing and submitted to the Open-Records Officer at the address designated in this Ordinance delivered by regular mail, postage prepaid, hand delivery, or by any other means for the delivery of the written request to the designated office. Electronic delivery of the request via email or facsimile is not permissible.
- B. The request shall be submitted to the Borough's Open Records Officer only by use of one of the following forms:
 - (1) The uniform form adopted by the Office of Open Records; or
 - (2) The form adopted and approved by the Borough of Green Tree.
- C. All requests for access to records received by the Borough of Green Tree shall be directed to its Open-Records Officer.
- D. The request for access to public records shall identify or describe the records sought with sufficient specificity to enable the Open-Records Officer to ascertain which records are being requested and shall include the name and address to which the Open-Records Officer shall address a response.
- E. Nothing in this Ordinance shall require the Open-Records Officer to respond to any request that is submitted by electronic means, via email or facsimile or by any means other than by a written request mailed to or hand delivered to the address indicated above.
- F. The Borough shall not be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Borough does not currently compile, maintain, format or organize the public record which is the subject of the request
- G. A record provided to a requestor shall be provided in the medium requested if it exists in that medium. Otherwise, it shall be provided in the medium in which it exists at the Borough.
- H. Nothing in this Ordinance shall in any way be deemed to enlarge, modify or make public any record that is not required to be produced by the Act , or that is otherwise exempt from production under the Act.
- I. The request shall certify that the requestor is a legal resident of the United States, or that the requestor is an "agency" as defined in the Act.

Section 5. Response to Written Requests

- A. Upon receipt of a request for a public record, the Open-Records Officer shall:
 - (1) Note on the request the date of receipt of the request.
 - (2) Compute the day on which the five business day requirement to respond will expire, and note that date on the written request.

- (3) Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.
- (4) If the request is denied in whole or in part, the written request shall be maintained for 30 days, or if an appeal is filed, until a final determination is issued by the Appeals Officer or the appeal is deemed denied.

Section 6. **Extension of the Five Business Day Time to Respond to a Request**

- A. Upon receipt of a written request for access, the Open-Records Officer shall determine if one of the following applies:
 - (1) The request requires redaction as authorized by the Act.
 - (2) The request requires retrieval of a record stored in a remote location.
 - (3) A timely response to the request cannot be accomplished due to bona fide and specified staffing limitations.
 - (4) A legal review of the request is necessary to determine whether the record request is subject to access under the Act.
 - (5) The requestor has not complied with the Borough's Right-to-Know Law procedures.
 - (6) The requestor refuses to pay the fees authorized by the Act and this Ordinance.
 - (7) The extent or nature of the request precludes a response within the required period.

- B. In the event one of the factors set forth in section 6.A. above applies, a written notice, as set forth hereafter, shall be sent to the requestor within the five business days set forth in section 5.A.(2) above.

- C. The written noticed set forth in section B. above shall notify the requestor that:
 - (1) The request for access is being reviewed.
 - (2) The reason for the review.
 - (3) A reasonable date that a response is expected to be provided.
 - (4) An estimate of the applicable fees owed when the record becomes available.

- D. If the reasonable response date set forth in section C.(3) above is in excess of 30 days following the five business days initially allowed, the request shall be deemed denied unless the requestor has agreed in writing to an extension to the date specified in the notice.
 - (1) If the requestor agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the Open-Records Officer has not provided a response by that date.

- E. If a request is denied in whole or in part, the denial shall be written and shall include:
 - (1) A description of the record requested.
 - (2) The reasons for the denial, with citation to supporting legal authority.

- (3) The type/printed name, title, business address, business telephone number and signature of the Open-Records Officer who authorized the denial.
- (4) Date of the response.
- (5) The procedure to appeal the denial of access.

Section 7. Appeal Procedure

- A. Any denial of a written request for access may be appealed by the requestor to the State Office of Open Records established in the Department of Community and Economic Development within 15 business days of the mailing date of the Open-Records Officer's response, or within 15 business days of a deemed denial.
- B. The appeal shall state the grounds upon which the requestor asserts that the record is a public record and shall address any grounds stated by the Open-Records Officer for delaying or denying the request.
- C. The Appeals Officer designated by the Office of Open Records shall thereafter issue a determination in accordance with Act 3 of 2008.
- D. A petition for review of the final determination of the Appeals Officer may thereafter be filed with the Court of Common Pleas of Allegheny County in accordance with and as authorized by Act 3 of 2008. The filing of such petition shall stay the release of documents until such time as a final decision has been issued.

Section 8. Fees

- A. Fees for photocopies, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means, if authorized by this Ordinance, shall be as established by the Office of Open Records, namely:
 1. For single sided copies black and white not in excess of 8.5 by 11 inches the sum of \$.25 per page.
 2. All other copies or duplication shall be charged based on the actual cost incurred as authorized by the State Office of Open Records.
- B. The production of records shall not require the Borough to certify records. In the event certification is requested by the requestor for the purpose of legally verifying the public record, the requestor shall be assessed a charge as established by the Office of Open Records, namely \$5.00 for such certification.
- C. If requested records are only maintained in a non-paper format, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media format of the record, unless the requestor specifically requires the more expensive medium.
- D. The actual cost of mailing shall be charged.

- E. Reasonable costs for complying with a request may be changed if authorized by the Act.
- F. In the event the fees required to fulfill the request are expected to exceed \$100.00, the requestor shall prepay the estimated fees prior to being granted access to the public records.
- G. In the event the Open Records Officer's response to a request states that copies of the records are available for delivery at specified offices of the Borough and the records are not retrieved within 60 days of the date of the response, the Borough may dispose of the copies not retrieved and retain any fees paid.

Section 9. In the event any part of this Ordinance is in conflict with any mandatory portion of Act 3 of 2008 then only that portion of this Ordinance shall be deemed in conflict, and this Ordinance shall be deemed amended to comply with Act 3 of 2008.

Section 10. Availability of Policy

This Ordinance shall be available for inspection at the Green Tree Borough Building, 10 West Manilla Avenue, Green Tree, PA 15220, and at the Borough's web site, www.greentreeboro.com.

Section 11. Repealer

Any ordinance or part of an ordinance in conflict with this Ordinance be and the same is hereby repealed insofar as the same may affect this Ordinance.

ORDAINED and ENACTED into law this 5th day of January 2009.