

**BOROUGH OF SPRING GROVE  
YORK COUNTY, PENNSYLVANIA**

**RESOLUTION 7-2009**

**A RESOLUTION OF THE BOROUGH COUNCIL, OF THE BOROUGH  
OF SPRING GROVE, YORK COUNTY, PENNSYLVANIA,  
ESTABLISHING A POLICY FOR THE RETENTION AND  
DESTRUCTION OF RECORDINGS FROM MEETINGS.**

**WHEREAS**, Spring Grove Borough (Borough) is a municipality of the Commonwealth of Pennsylvania and is regulated by the Municipal Records Manual approved on December 16, 2008 by the Pennsylvania Historical and Museum Commission (Commission); and

**WHEREAS**, the Borough is also regulated by the Right-To-Know Law; and

**WHEREAS**, the Borough has adopted Resolution 4-2009 declaring its intent to follow the schedules and procedures for disposition of records as set forth in the Municipal Records Manual; and

**WHEREAS**, it is the Commission's position that electronic tapes, digital or other audio recordings of public meetings of a municipality created for the sole purpose of assisting the Borough's recording secretary to prepare the meeting minutes are considered drafts which need not be retained after approval of the official minutes; and

**WHEREAS**, the state's Office of Open Records created pursuant to the Right-To-Know Law has determined that such tapes or other audio recordings are public records, the destruction of which is subject to the Municipal Records Manual, which can only be destroyed based on a resolution of the municipality's governing body setting forth the policy for retention and destruction of such tapes or other audio recordings; and

**WHEREAS**, the Borough Council desires to adopt a resolution setting forth a policy on the retention and destruction of such tapes or other audio recordings, consistent with both the Municipal Records Manual and the Right-To-Know-Law:

**NOW, THEREFORE, BE IT RESOLVED**, and it is hereby resolved by the Borough Council of Spring Grove Borough as follows:

1. All tape, digital, or other audio recordings of every meeting shall be retained by the Secretary of the Borough or his/her designee, until the minutes of that meeting have been formally approved by the Borough Council, which shall occur at the next regularly scheduled public meeting of the Borough.
2. Within twenty four (24) hours after the Minutes have been approved, the Borough Secretary shall destroy, erase, or otherwise permanently delete

the tape, digital or other audio, in all media which it has been stored, of the public meeting for which the minutes were approved.

3. The Office of Open Records has determined that such meeting tapes or other audio recordings are public records. To the extent that tapes or other audio recordings of meetings are public records, then this policy shall regulate their retention and destruction as public records, in the event that a written records request for a copy of the meeting tape or other audio recording is made to the Borough before the destruction of the tape or other audio, then a copy shall be provided to the requestor.
  - a. In the event that such a records request is timely made, then the Borough shall provide the requestor with a copy of the tape or other audio recording in the same medium as that in which it was created, or such other medium that the Borough and the requestor shall agree upon, at the expense of the requestor.
  - b. If a copy of the meeting tape or other audio recording is provided pursuant to a Right-To-Know Request, then a copy shall be maintained indefinitely by the Borough unless and until its discretion is authorized by the Borough Council and the Borough's solicitor. Such tape or other audio recording, together with a copy of the records request, shall be separately stored in a different location from regular and routine meeting tapes or other audio recordings.
4. Additionally, no tape or other audio recording which, prior to its destruction pursuant to the policies set out in this Resolution, is the subject of any lawfully issued subpoena or discovery request of any parties in litigation shall be destroyed or erased except upon agreement of the parties to the litigation, by Order of Court, or by final conclusion of the litigation, including all appeals, at which time it shall be destroyed pursuant to and consistent with this policy. Copies of any such tapes or other audio recordings shall be stored in the same manner as provided in 3.b, and a copy shall be provided to and maintained by the Borough solicitor as an attorney's work product.
5. Executive sessions are not public records under either the Municipal Records Manual or the Right-To-Know Law, and are not subject under any circumstance to requests for public records. At no time and under no circumstances shall an executive session of the Borough Council be recorded. In the event that any portion of an executive session is inadvertently recorded, that portion of the recording of the executive session shall immediately be erased or deleted. No minutes shall be kept of any executive sessions of the Borough, and notes taken in an executive session are not public records, and are not subject under any circumstance to requests for public records under the Right-To-Know Law.
6. This Resolution shall be effective as immediately as provided by law.

ADOPTED this 4<sup>th</sup> day of May 2009.

ATTEST

SPRING GROVE BOROUGH COUNCIL

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Andrew N. Shaffer, Secretary

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Richard P. Legore, President

BOROUGH SEAL

I approve the within Resolution.

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Dolores J. Aumen, Mayor