

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF CATASAUQUA; ADDING A NEW CHAPTER 68 ENTITLED "RECORDS" AND A NEW ARTICLE I OF THAT CHAPTER ADOPTING A NEW OPEN RECORDS POLICY.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Catasauqua, County of Lehigh and Commonwealth of Pennsylvania:

SECTION 1: That the Code of the Borough of Catasauqua is hereby amended to add a new Chapter 68 entitled "Records" and a new Article I within that Chapter entitled "Open Records Policy".

SECTION 2: That the following shall be adopted as Article I of Chapter 68:

§ 68-1 Purpose

The purpose of this policy is to assure compliance with Act 3 of 2008, the Pennsylvania Right-to-Know Law, as amended; to provide access to public records of Catasauqua Borough; to preserve the integrity of Catasauqua Borough's records; and to minimize the financial impact to the residents of the borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

§ 68-2 Designated Open Records Officer

The Borough of Catasauqua hereby designates the Borough Manager as the Open Records Officer of the general Borough documents. As concerns all police documents, the Borough designates the Chief of Police of the Catasauqua Police Department as the Open Records Officer. It is the policy of the Borough to require the presence of a designated employee when public records are examined and inspected. Further, the Borough will charge reasonable fees for the duplication of public records of the Borough or the Police Department. In accord with the Right to Know Act, the Open Records Officer will comply with the following guidelines to the extent practical:

A. Upon receiving a request for a public record, the Open Records Officer shall: (1) note the date of receipt on the written request; (2) compute the day on which the five day period will expire and make a notation of that date on the written request, and (3) maintain a copy of the written request for the record until the matter has been concluded.

B. The Borough Manager/Chief of Police may designate certain employee(s) to process public record requests.

C. All requests for public records of the Borough under this policy shall be specific in identifying and describing each public record requested. In no case shall the Borough 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. **All requests for public records shall be submitted in writing on forms prepared and provided by the Borough, a copy of which is attached to this Ordinance, or on the form of the Commonwealth's Office of Open Records. No other form will be accepted.** All requests shall include the date of the request; requestor's name, address, and telephone number; certification of United States residency; signature of requestor; and if duplication is requested, appropriate payment.

D. The Open Records Officer, or designated employee, shall make a good faith effort to determine whether each record requested is a public record.

E. The Open records Officer or designated employee shall respond to the requestor within five (5) business days from the date of receipt of the written request. If the Borough does not respond within five (5) business days of receipt thereof, the request is deemed denied.

F. The response provided by the Borough shall consist of (1) approval for access to the public record; (2) review of the request by the designated employee; or (3) denial of access to the record requested.

G. The response provided by the Borough shall consist of (1) approval for access to the public record; (2) redaction of portions of the public record; or (3) request additional time for the retrieval of the stored record in a remote location; (4) inform party that additional time will be necessary because of staffing limitation; (5) inform the party that legal review is necessary to determine whether the record is subject to access under the Act; or (6) request an extension of time from the requestor, in writing.

H. The fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records or the Borough of Catasauqua, whichever is greater. The Borough may, at its discretion, waive the fees.

I. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Borough resources.

J. If the request is being reviewed, the notice provided by the Borough shall be in writing and include the reason for the review and the expected response date, which shall be within thirty (30) days of the notice of review. If the Borough does

not respond within thirty (30) days thereof, the request is deemed denied. Review of the request is limited to situations where:

- (a) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
- (b) The record requires retrieval from a remote location;
- (c) A timely response cannot be accomplished due to staffing limitations;
- (d) A legal review is necessary to determine whether the record requested is a public record;
- (e) The requestor has failed to comply with the Borough's policy and procedure requirements; or
- (f) The requestor refuses to pay the applicable fees.
- (g) The extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed above applies, the Borough shall send written notice to the requestor within five business days of receipt of the request for access. The notice shall include a statement notifying the requestor that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the records becomes available. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed for, the request for access shall be deemed denied unless the requestor has agreed in writing to an extension to the date specified in the notice. 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 agency has not provided a response by that date.

K. If access to the record requested is denied, the notice provided by the Borough shall be in writing as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate Catasauqua Borough Records."

L. Deny access to the public record under the provisions of Act 3 of 2008 including, but not limited to, failure to comply with the Borough's policies regarding access to records, the requestor's refusal to pay applicable fees authorized by this Act, deny the record as it is one of the exceptions under Section 708 of the Public Records Act, deny the request as the record is protected by privilege, deny the request as the record is exempt from disclosure under any other federal or state law, regulation or judicial order or decree, deny the record as it is a disruptive request, deny the record as it may request information which could lead to disaster or potential damage.

M. Within 30 days of the mailing date of the final determination of the appeals officer, the requestor or Borough may file a petition for review or other document as required by rule of court with the court of common pleas for Lehigh County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision. A petition for review under this section shall stay the release of documents until a decision is issued.

N. This policy shall be available for review at the Borough office.

SECTION 3: Repealer. That any Ordinance, or part of Ordinance, conflicting with this Ordinance be and the same is hereby repealed insofar as the same affects this Ordinance. The Codified Ordinance of the Borough of Catasauqua "Open Records Policy" is specifically repealed in its entirety

SECTION 4: Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Catasauqua Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 5: Effective Date. This Ordinance shall become effective on January 1, 2009.

ORDAINED AND ENACTED this                      day of                      2008.

BOROUGH OF CATASAUQUA

BY: \_\_\_\_\_  
Vincent P. Smith  
President of Council

ATTEST: \_\_\_\_\_  
Eugene L. Goldfeder  
Secretary

APPROVED this                      day of                      2008.

BY: \_\_\_\_\_  
Barbara A. Schlegel  
Mayor

# BOROUGH OF CATASAUQUA

118 Bridge Street  
Catasauqua, PA 18032  
(610) 264-0571

## REQUEST FOR INSPECTION AND/OR DUPLICATION OF PUBLIC RECORDS

**\*\*Please Print Legibly\*\***

Requestor's Name: \_\_\_\_\_

Requestor's Address: \_\_\_\_\_

Requestor's Telephone Number: \_\_\_\_\_

RECORDS REQUESTED: Please identify each of the specific records you are requesting and any other additional information that will help us locate said records (dates, names, property address, etc.). You must identify or describe the records with sufficient specificity to enable the Borough to determine which records are being requested. Use additional sheets if necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please check one of the following boxes:

- I am only requesting access to the records identified above.
- I am only requesting a copy of the records identified above.
- I am requesting access to the records identified above and a copy of those records.

If you are requesting a copy of the records identified above, please check one of the following boxes:

- I want a paper copy of the records.
- I want a computer copy of the records (e.g. compact disk).
- Other (please specify): \_\_\_\_\_

Requestor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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### TO BE COMPLETED BY BOROUGH:

Date Received: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Action Taken:  Approved      Date of Approval: \_\_\_\_\_      Fees: \_\_\_\_\_  
 Denied              Date of Denial: \_\_\_\_\_  
Reason for Denial: \_\_\_\_\_

Additional Comments: \_\_\_\_\_

Signature of Authorized Borough Official: \_\_\_\_\_ Date: \_\_\_\_\_

# BOROUGH OF CATASAUQUA POLICE DEPARTMENT

118 Bridge Street  
Catasauqua, PA 18032  
(610) 264-0577

## REQUEST FOR INSPECTION AND/OR DUPLICATION OF PUBLIC RECORDS

**\*\*Please Print Legibly\*\***

Requestor's Name: \_\_\_\_\_

Requestor's Address: \_\_\_\_\_

Requestor's Telephone Number: \_\_\_\_\_

RECORDS REQUESTED: Please identify each of the specific records you are requesting and any other additional information that will help us locate said records (dates, names, property address, etc.). You must identify or describe the records with sufficient specificity to enable the Borough to determine which records are being requested. Use additional sheets if necessary.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please check one of the following boxes:

- I am only requesting access to the records identified above.
- I am only requesting a copy of the records identified above.
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If you are requesting a copy of the records identified above, please check one of the following boxes:

- I want a paper copy of the records.
- I want a computer copy of the records (e.g. compact disk).
- Other (please specify): \_\_\_\_\_

Requestor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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### TO BE COMPLETED BY BOROUGH:

Date Received: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Action Taken:  Approved      Date of Approval: \_\_\_\_\_      Fees: \_\_\_\_\_  
 Denied      Date of Denial: \_\_\_\_\_  
Reason for Denial: \_\_\_\_\_

Additional Comments: \_\_\_\_\_

Signature of Authorized Borough Official: \_\_\_\_\_ Date: \_\_\_\_\_

BOROUGH OF CATASAUQUA  
DENIAL OF REQUEST TO REVIEW AND/OR DUPLICATE

Date of Denial: \_\_\_\_\_

Requestor's Name: \_\_\_\_\_

Requestor's Address: \_\_\_\_\_  
\_\_\_\_\_

RE: Denial of Request to Review and/or Duplicate \_\_\_\_\_

Date of Request: \_\_\_\_\_

Dear \_\_\_\_\_:

Please be advised that your request to review/duplicate the following records:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

has been denied for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_

This denial is based upon the following legal authority:

\_\_\_\_\_

You have the right to appeal this decision. If you appeal, you must:

1. Within fifteen (15) days of the notice of denial or deemed denial, file an appeal with the Commonwealth of Pennsylvania, Department of Community & Economic Development, Office of Open Records. 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 Borough for delaying or denying the request.

\_\_\_\_\_  
Borough of Catasauqua  
Open Records Officer