

BOROUGH OF CHRISTIANA  
LANCASTER COUNTY, PA  
ORDINANCE NUMBER 208

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE  
BOROUGH OF CHRISTIANA OPEN RECORDS POLICY

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Christiana, Pennsylvania, as follows:

Section I: The Open Records Policy of the Borough of Christiana is hereby amended to state in entirety as follows:

A. 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 Christiana Borough; to preserve the integrity of Christiana 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.

B. Designated 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 and to charge reasonable fees for duplication of public records of the Borough. Christiana Borough designates the Borough Manager as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

1. The Borough Manager may designate certain employee(s) to process public record requests.
2. The Borough Manager is responsible for minimizing, where possible, the financial impact to the Borough regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.
3. 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 compile, maintain, format or organize a public record. All requests for public records shall be on the form attached hereto entitled "Public Record Review/Duplication Request" or on the form specified by the Pennsylvania Office of Open Records. All requests for public records

shall be submitted in writing and 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.

4. The designated employee shall make a good faith effort to determine, in accordance with the Pennsylvania Right to Know Law, whether the record requested is a public record.
5. The Borough shall facilitate a reasonable response to a request for Christiana Borough's public records. In no case is the Borough expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Borough's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.
6. The designated employee shall note on the written request, the date of receipt of it and the date five (5) business days thereafter and shall respond to the requestor within that period. If the Borough does not respond within five (5) business days of receipt thereof, the request is deemed denied.
7. The Borough shall notify a third party of a request for a record if the third party provided the record and included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information. Notification to the third party shall be provided within five (5) business days of receipt of the request. The third party shall have five (5) business days from the receipt of notice from the Borough to provide input on the release of the record. The Borough shall deny the request for the record or release the record within ten (10) business days of the date of notice to the third party and shall notify the third party of the decision.
8. The response provided by the Borough shall consist of either (1) approval for access to the public record; (2) notice that the request is being reviewed; (3) denial of access to the record requested.
9. If access to the public record requested is approved, the public record shall be available for access during regular business hours of the Borough. The designated employee shall cooperate fully with the requestor, while also taking reasonable measures to protect Borough public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.
10. Fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records. The Borough may at its discretion waive fees.

11. 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.
12. If the request is being reviewed, the notice provided by the Borough shall be in writing and 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 the applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) 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 requester agrees to the extension, the request shall be deemed denied on the day following the date specifies in the notice if the agency has not provided a response by that date. 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 subject to access;
  - e. The requestor has failed to comply with the Borough's policy and procedure requirements; or
  - f. The requester refuses to pay the applicable fees.
  - g. The extent or nature of the request precludes a response within the required time period.
13. If access to the record requested is denied, the notice provided by the Borough shall be in writing and shall contain all the information specified on the form attached hereto entitled "Denial of Request to Public Record Review/Duplication Request".
14. The designated employee shall maintain an electronic or paper copy of the written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request

shall be maintained for thirty (30) days or, if an appeal is filed, until a final determination is issued by the Office of Open Records or the appeal is deemed denied.

15. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth's Office of Open Records within fifteen (15) business days of the mailing date of the Borough's notice of denial, or within fifteen (15) days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is public record and shall address any grounds stated by the agency for delaying or denying the request.
16. 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 Lancaster County. A petition for review under this section shall stay the release of documents until a decision is issued.

#### C. Posting

The following information shall be posted at the Borough Office and, if the Borough maintains an internet website, on the Borough's internet website:

1. Contact information for the open-records officer.
2. Contact information for the Office of Open Records.
3. A form which may be used to file a request.
4. A copy of this ordinance and all other written Borough policies and procedures relating to the Pennsylvania Right to Know Law.

Section II. Repealer. That any Ordinance, or part of Ordinance, conflicting with the Ordinance be and the same is hereby repealed insofar as the same affects this Ordinance.

Section III. 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 Christiana 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.

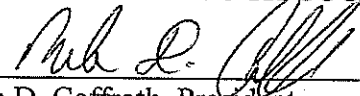
Section V. Effective Date. This Ordinance shall become effective on January 1, 2009.

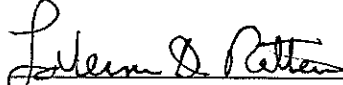
Section VI. This ordinance shall apply to requests filed after December 31, 2008.

ENACTED AND ORDAINED this 2<sup>nd</sup>. day of December, 2008.

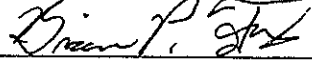
CHRISTIANA BOROUGH COUNCIL

Attest:

  
\_\_\_\_\_  
Robin D. Coffroth, President

  
\_\_\_\_\_  
Laverne D. Rettew, Secretary

Approved this 2<sup>nd</sup>. day of December 2008.

  
\_\_\_\_\_  
Brian P. Fox, Mayor

BOROUGH OF CHRISTIANA  
PUBLIC RECORD REVIEW/DUPLICATION REQUEST

**Please print legibly.**

Date Request Received: \_\_\_\_\_  
Date Five (5) Business Days From Receipt: \_\_\_\_\_

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

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

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

I request \_\_\_ review \_\_\_ duplication (check as appropriate) of the following records.  
**Important:** 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.

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

I certify that I am a resident of the United States of America.

\_\_\_\_\_  
Signature of Requester

This request may be submitted in person, by mail, by facsimile or e-mail to:  
Christiana Borough  
10 W. Slokom Avenue  
P.O. Box 135  
Christiana, PA 17509  
Phone: (610) 593-5199  
Fax: (610) 593-7073  
ChristianaBoro@comcast.net