

**POLICY OF THE BOROUGH OF GETTYSBURG,  
ADAMS COUNTY, PENNSYLVANIA, REGARDING  
REQUESTS FOR PUBLIC RECORDS UNDER THE  
AMENDED RIGHT TO KNOW LAW (ACT 3 OF 2008).**

**WHEREAS**, Act 3 of 2008 enacted on February 14, 2008, amended the Right to Know Law (hereinafter referred to as the “Act”), and requires municipal subdivisions and authorities to adopt a policy implementing the provisions and requirements of the Act; and

**WHEREAS**, the Borough of Gettysburg (hereinafter referred to as the “Borough”) is an “agency” as defined by the Right to Know Law, as amended; and

**WHEREAS**, the purpose of this policy is to assure compliance with the Act; to provide access to public records of the Borough; to preserve the integrity of the 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.

**NOW, THEREFORE, BE IT ADOPTED** by the Borough of Gettysburg, Adams County, Pennsylvania, by the Borough Council of the Borough of Gettysburg, and it is hereby

**ADOPTED** by the authority of the same as follows:

**1. 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. The Borough designates the Borough Secretary as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

A. The Borough Secretary may designate certain employee(s) to process public records requests.

B. The Borough Secretary 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.

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 and include the date of the request; requester’s name, address, and

telephone number; certificate of United States residency; signature of requester; and if duplication is requested, appropriate payment.

D. The Borough Secretary shall make a good faith effort to determine whether each record requested is a public record.

E. The Borough shall facilitate a reasonable response to a request for the 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.

F. The Borough Secretary shall respond to the requester 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.

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

H. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Borough. The Borough Secretary shall cooperate fully with the requester, while also taking reasonable measures to protect Borough public records from the possibility of theft and/or modifications. The presence of a designated employee is required when public records are examined and inspected.

I. Fees for duplication of public records shall be as established by the Office of Open Records of the Commonwealth of Pennsylvania (hereinafter referred to as the "Commonwealth Office of Open Records"). The Borough may at its discretion waive fees.

J. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed one hundred (\$100.00) dollars, the Borough Secretary, or employee designated by the Borough Secretary, shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Borough resources.

K. 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 requester has failed to comply with the Borough's policy and procedure requirements;
- (f) The requester refuses to pay the applicable fees; or
- (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 requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, and a reasonable date that a response is 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 requester 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 specified in the notice if the agency has not provided a response by that date.

L. If access to the record requested is denied, the notice provided by the Borough shall be in writing as indicated on a form to be approved by the Borough.

M. 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 a public record and shall address any grounds stated by the agency for delaying or denying the request.

N. Within thirty (30) days of the mailing date of the final determination of the appeals officer, the requester or the Borough may file a petition for review or other document as required by rule of court with the Court of Common Pleas for Adams 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.

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

## **2. Miscellaneous.**

A. Amendments:

The Borough may adopt amendments to this Policy which are necessary to implement the provisions and purposes of the Act, as amended, or Court decisions pertaining thereto.

B. Posting:

A copy of this Policy shall be conspicuously posted at the Borough's office.

**3. Effective Date.**

This Policy shall take effect on January 1, 2009.

**ADOPTED** this 8<sup>th</sup> day of December, 2008.

BOROUGH OF GETTYSBURG

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Edwin R. Peterson, President

ATTEST:

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Sara L. Stull, Secretary