

FELTON BOROUGH
YORK COUNTY, PENNSYLVANIA

RESOLUTION NO. 2025-01

A RESOLUTION OF FELTON BOROUGH ADOPTING UPDATED POLICIES AND
PROCEDURES RELATING TO REQUESTS FOR PUBLIC RECORDS AND
COMPLYING WITH THE RIGHT-TO-KNOW LAW

WHEREAS, Felton Borough is a political subdivision, and is an agency as defined by Act 3 of 2008, which amended and created the new Right-to-Know Law (the "Law"); and

WHEREAS, Section 504 of the Law authorizes such agencies to establish written regulations and policies necessary to implement the Law; and

WHEREAS, Felton Borough did adopt policies and procedures relating to requests for records complying with the Right-to-Know Law, Resolution No. 2008-3;

WHEREAS, Felton Borough desires to update its policies and procedures.

NOW, THEREFORE, BE IT RESOLVED, and it is hereby resolved by Felton Borough as follows:

SECTION 1: Felton Borough hereby adopts the Policy attached hereto and incorporated by reference, relating to and regulating all requests for records by the public.

SECTION 2: This Resolution shall be effective on January 13, 2025.

DULY ADOPTED, by the Borough Council of Felton Borough, this 13th day of January, 2025.

Attest:

Felton Borough


Secretary

By: 
President

Policy Title: Right-to-Know Law (Amended)

Effective Date: 11 13, 2025

PURPOSE

Felton Borough (the "Borough") is an agency and subject to the new Right-to-Know Law, as established by Act 3 of 2008 (the "Act"). The Right-to-Know Law and Act may be referred to collectively the "Law". The Borough is authorized to establish a written policy, which must be posted or available to aid in implementation of the Law. This Policy replaces any prior policy of the Borough and is effective as of January 13, 2025.

POLICY

The following will provide guidance for the Felton Borough Council and employees on how to efficiently and effectively process requests made for public records as governed by the Law.

Section 1. Open Records Officer.

- A. Each year at the first meeting that shall occur in a calendar year, the Borough Council shall appoint an Open Records Officer. This Officer shall be responsible for processing, recording, tracking and otherwise administering all portions of this policy, as well as any policy or procedure that may provide direction for the retention of documents and the destruction of documents of the Borough.
- B. The Borough shall make available the identity and manner of communication to the Open Records Officer and post said information at a conspicuous location at the Borough office.
- C. In the event an Open Records request is submitted to an employee other than the Open Records Officer, that person must immediately provide the request to the Open Records Officer. All employees should refrain from accepting Open Records Requests and direct all such requests to the Open Records Officer.
- D. Duties of Open Records Officer:
 - 1. The Open Records Officer shall receive requests submitted to the Borough under the Law, direct requests to other appropriate persons within the Borough, track the Borough's progress in responding to requests and issues interim and final responses under the Law.
 - 2. Upon receiving a request for a public record, legislative record or financial record, the Open Records Officer shall do all of the following:
 - (i) Stamp the date of receipt on the written request.
 - (ii) Compute the day on which the five-day response period under Section 901 will expire and make a notation of that date on the written request.

(iii) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled.

(iv) If the request is denied, the written request shall be maintained for 30 days.

(v) If an appeal is filed, keep the records until a final determination is issued under section 1101(b) or the appeal is deemed denied.

(vi) Create a file for the retention of the original request, a copy of the response and a record of written communications with the requester.

Section 2. Public Records.

- A. Public Records as defined by the Law shall be provided to any legal resident of the United States, unless otherwise exempted pursuant to the Law.
- B. A record shall be defined as a "Public Record" as follows:
- A record including a financial record, of the Commonwealth or the Borough that:
- is not exempt under Section 708 of the Act;
 - is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or
 - is not protected by a privilege.
- C. The Borough shall not provide records that are exempted from public disclosure pursuant to Section 708(b) of the Act, regardless of whether a person or entity provides a release for such information.
- D. Pursuant to Section 708(b), draft meeting minutes of the Borough may be provided to the Council Members, the Secretary, other Borough employees or representatives, the Engineer, and the Solicitor to review. Such a dissemination of draft minutes for review for purposes of subsequent approval shall not constitute a waiver of the exemption concerning draft meeting minutes.
- E. Regardless of the exemptions set forth in Section 708(b), the Borough shall not provide documents or records that are privileged or protected by federal or state law or by any court order. In the event the Open Records Officer cannot determine the nature of a document with regard to privileged or other exemption, the Open Records Officer is authorized to seek guidance from the Borough Solicitor with regard to the same.
- F. The Borough shall individually evaluate all exemptions and apply each exemption separately for purposes of determining what documents shall be provided pursuant to the Act.
- G. For purposes of this policy, the Borough shall maintain records pursuant to the time frames established pursuant to its Record Retention and Destruction procedures.

- H. Records Management Analysis. The Borough has the authority in consultation with the Pennsylvania Museum and Historical Commission to create a retention policy governing records of the Borough.

Section 3. Procedure for Requesting Records.

- A. All requests for documents must be a written request submitted on a form as prescribed by the Borough. All requests must be in a manner so that the material requested describes the records requested with specificity. Verbal requests shall not be considered official requests for purposes of the timeframes established by the Law. For purposes of defining a "written request" the Borough shall accept requests by email, facsimile, mail or in person pursuant to the regulations outlined herein. Such requests shall only be received during regular business hours of the Borough Office as posted.
- B. All requests must be submitted to the Open Records Officer. In no event shall a request be considered officially submitted until received by the Open Records Officer.
- C. Upon receipt of a written request for a public record, the Open Records Officer shall make a diligent attempt to determine whether such a request involves a public record and whether the Borough is in possession of the subject record.
- D. The Borough shall not be required to create a record which does not currently exist or compile, maintain format or organize a record in a manner not maintained as of the date of the request.
- E. The Borough shall follow the Open Records Law procedures for redaction when appropriate.
- F. A requester's right of access does not include the right to remove a record from the control or supervision of the Open Records Officer.
- G. Anonymous or verbal requests shall not be considered and shall be denied.

Section 4. Extension of Time

- A. The Borough shall respond to all requests within five business days. In instances of a voluminous request requiring a thirty day extension as provided under Section 902(a)(7) of the Act, or any other circumstances noted in Section 902 relating to an extension of time, the Borough shall advise the requester within five (5) business days of the receipt of the request of the need

for additional response time. Additional time may be necessary when any of the following factors apply:

1. The request for access requires redaction of a record in accordance with section 706;
2. The request for access requires the retrieval of a record stored in a remote location;
3. A timely response to the request for access cannot be accomplished due to bona fide and specific staffing limitations;
4. A legal review is necessary to determine whether the record is a record subject to access under this act;
5. The requester has not complied with the Borough's policies regarding access to records; or
6. The extent or nature of the request precludes a response within the required time period.

B. When an extension of time is necessary under the factors set forth above, the Open Records Officer shall provide the following information:

1. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason the review requires an extension, a reasonable date that a response is expected and an estimate of applicable fees.
2. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed for in section 901, the request for access shall be deemed denied unless the requester has consented in writing to an extension in excess of 30 days.
3. 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 Borough has not provided a response by that date.

Section 5. Borough Discretion. The Borough may exercise its discretion to make an otherwise exempt record accessible for inspection and copying as set forth in the Pennsylvania Open Records law, if all of the following conditions apply:

- A. Disclosure of the record is not prohibited by state or federal law or regulation or judicial order or decree;
- B. The record is not protected by a privilege; and
- C. A determination has been made by the Borough determining that the public interest favoring access outweighs any individual Borough or public interest that may favor restriction of access.

Section 6. Fees for Records Requests.

- A. The Borough shall impose fees at the maximum rate established by the Pennsylvania Office of Open Records which shall be revised from time to time. A copy of the current Office of Open Records Fee Schedule is attached hereto as Exhibit "A" and is incorporated herein by reference.
- B. In the event that a fee for the processing a request shall exceed or is reasonably believed to exceed \$100.00, the Borough shall require a pre-payment of \$100.00 in order to process said request. The Borough may specify acceptable forms of payment.

Section 7. Denial of Access. In the event that the Borough seeks to deny a request for information, in whole or in part, the denial shall be in writing and set forth the following information:

- A. a description of the request;
- B. the specific reasons for denial and the support therefore;
- C. the typed or printed name, title business address , business telephone number and signature of the open-records officer who has issued such denial;
- D. the date of the response; and
- E. the procedure to appeal said denial under the Open Records Act.

Section 8. Posting. The Borough shall post the following information at the Borough Office site and maintain such information in an up-to-date format when necessary:

- A. Contact information for the Borough Open Records Officer;
- B. Contact information for the Pennsylvania Office of Open Records or other applicable appeals officer;
- C. A form that may be used to file a request;
- D. Regulations, policies and procedures of the Borough relating to the Open Records process.

Section 9. Bid Documents. The Borough may provide notice on all competitive bid forms related to the Borough procurement that information within proposals, including financial information of a bidder may be provided as a public record, if appropriate pursuant to the discretion of the Open Records Officer, after a bid is awarded.

Section 10. Appeals. If a written request is denied or deemed denied, the requester may file an appeal within fifteen business days from the mailing date of the Borough response or 15 business days from a deemed denial. The exceptions shall state grounds on which the requestor asserts that the record is a public record. The requester may appeal a final determination to the Open Records Office within fifteen days of the denial. Appeals should be sent to:

Office of Open Records
Commonwealth of Pennsylvania
333 Market Street, 16th Floor
Harrisburg, Pennsylvania 17101-2234
openrecords@pa.gov

Office of Open Records – Official RTKL Fee Schedule

Updated December 30, 2022

Record Type / Delivery Method	Fee
Black & White Copies (first 1,000)	Up to \$0.25 per copy.
Black & White Copies (beyond 1,000)	Up to \$0.20 per copy. ¹
Color Copies	Up to \$0.50 per copy. ²
Specialized Documents ³	Up to actual cost.
Records Delivered via Email	No additional fee may be imposed. ⁴
CD / DVD	Up to actual cost, not to exceed \$1.00 per disc.
Flash Drive	Up to actual cost.
Facsimile	Up to actual cost. ⁵
Other Media	Up to actual cost.
Redaction	No additional fee may be imposed. ⁶
Conversion to Paper	Up to \$0.25 per page. ⁷
Photographing a Record	No additional fee may be imposed. ⁸
Postage	Up to actual cost of USPS first-class postage.
Certification of a Record	Up to \$5.00 per record. ⁹

¹ A "copy" is either a single-sided copy, or one side of a double-sided copy, on 8.5"x11" or 8.5"x14" paper.

² A "copy" is either a single-sided copy, or one side of a double-sided copy, on 8.5"x11" or 8.5"x14" paper. Note that a requester may ask for black and white copies even if the original is in color and color copies are available.

³ Including, but not necessarily limited to, non-standard sized documents and blueprints.

⁴ If a requester asks to receive records which require redactions in electronic format and the agency is unable to securely redact the records by electronic means, an agency may print the records to provide for secure redaction, then scan them in for delivery by email. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁵ If an agency must print records to send them by facsimile, the agency may charge the fees noted above for B&W copies.

⁶ If a requester seeks records requiring redaction and the agency is unable to securely redact the records by electronic means, an agency may copy or print the records to provide for secure redaction. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁷ If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media, unless the requester specifically requests for the record to be duplicated in the more expensive medium. See § 1307(d).

⁸ This assumes the requester is using his or her own camera, such as a cellphone camera, to photograph the records. See *Muenz v. Township of Reserve*, OOR Dkt. AP 2015-1021, 2015 PA O.O.R.D. LEXIS 1176. If redaction is required prior to the requester being granted access to photograph records and the agency is unable to securely redact the records by electronic means, an agency may copy or print the records to provide for secure redaction. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁹ Under the RTKL, an agency may impose "reasonable fees for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record." The OOR recommends no more than \$5 per record to certify a public record. Certification fees do not include notarization fees.

Exhibit 11A 44

Additional Notes

Fees May Be Waived: All fees established herein may be waived at the discretion of the agency.

Medium Requested: A record being provided to a requester 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. *See § 701.*

Other Statutory Fees: If a statute other than the RTKL governs the amount an agency may charge for a certain type of record, the other statute controls. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page (42 P.S. § 21051). Police departments may charge up to \$15 for a copy of a vehicle accident report (75 Pa.C.S. §3751 (b)(2)); the Philadelphia Police Department may charge up to \$25 per copy (Id. at (b)(3)). State police are authorized to charge "\$5 for each copy of the Pennsylvania State Police full report of investigation." (75 Pa.C.S. §1956(b)). Other examples include the History Code, the Municipalities Planning Code, and the Criminal History Record Information Act.

Inspection of Redacted Records: If a requester wishes to inspect, rather than receive copies of, records which contain both public and non-public information, the agency may redact the non-public information. An agency may not charge the requester for the redaction itself. However, an agency may charge (in accordance with the OOR's Official Fee Schedule) for any copies it must make in order to securely redact the material before allowing the requester to view the records. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.

Enhanced Electronic Access: If an agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the agency may establish user fees specifically for the provision of the enhanced electronic access. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access, or any other reasonable method and any combination thereof. Such fees shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency. **NOTE: Fees for enhanced electronic access must be reasonable and must be pre-approved by the OOR. Please submit enhanced electronic access fee requests to the OOR.**

Fee Limitations: Except as otherwise provided by statute, the RTKL states that no other fees may be imposed unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record subject to access under the RTKL. No fee may be charged for searching for or retrieval of documents. An agency may not charge staff time or salary for complying with a RTK request. No fee may be charged for an agency's response letter.

Prepayment: Prior to granting a request for access in accordance with the RTKL, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100. Once a request is fulfilled and prepared for release, the OOR recommends that an agency obtain payment prior to releasing the records.

Questions: If you have any questions regarding the OOR's Official Fee Schedule, please contact the OOR (email: openrecords@pa.gov, telephone: 717-346-9903).