

Rutledge Borough  
Open Records Policy  
(Resolution 2018-10)

Effective: Oct. 22, 2018

Last Updated: Oct. 21, 2018

The Borough of Rutledge has adopted this Open Records Policy (“Policy”) to comply with the Commonwealth’s Act 3 of 2008, 65 P.S. §§ 67.101 et seq., commonly known as the “Right to Know Law” (sometimes referred to below as the “Law”). With exceptions, members of the public have the right to inspect and/or copy records upon request.

I. Definitions

- a. **Business Day:** Monday through Friday during established borough business hours<sup>1</sup>, except those days when the Rutledge Borough (“Borough”) office is closed. For the purpose of this Policy, the Borough is closed when any of the following apply
  - i. When the main office is closed for more than half of a day during regular business hours
  - ii. When the Borough closes for an emergency basis
  - iii. Any federal holiday
  - iv. Any day where the Borough has given twenty-four-hour advanced notice of the borough closing.
- b. **Non-Public Records:** Under the Law, some types of records are not considered open to the public. Items that included in this category include but are not limited to:
  - i. Personal identifiers
  - ii. Medical information
  - iii. Computer security
  - iv. Draft minutes
  - v. Notes from executive session
  - vi. Employee records
  - vii. Attorney/client communications
  - viii. Records that if disclosed, could jeopardize state or deferral funds or public safety.
- c. **Public Record:** Any document that satisfies the general definition of ‘public record as set forth in the Law and does not fall within any exception set forth therein.
- d. **Record:** Information, regardless of physical form or characteristic, that documents transactions or activities of the Borough and that is created, received, or retained pursuant to law or in connection with transactions, business, or activities of the Borough.

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<sup>1</sup> Borough business hours: <http://www.rutledgepa.org/contacts/>

- e. **Right to Know Law (or Open Records Law):** Act 3 of 2008, 65 P.S. §§ 67.101 et seq., commonly known as the “Right to Know Law”

II. Purpose

The general purpose of this policy is:

- i. To recognize the value of an open, transparent government by making information available to the public, memorializing the Boroughs commitment to continually improving access to public information, and fostering a public participation.
- ii. To appoint a Borough Open-Records officer who oversees the implementation of this Policy
- iii. To provide a written framework that outlines procedures and policies necessary to provide access to the records under the Law
- iv. To provide prompt and timely responses to requests made

III. Establishment of Borough Open Records Officer

a. Open Records Officer

- i. The Borough Open Records Officer shall administer all open record requests
- ii. The Officer shall ensure the procedures described herein are followed

b. Appointment of the Open Records Officer

- i. The Borough has designated the following person to serve as the Borough Open Records Officer for all requests: Barbarann Keffer, the Borough Secretary or her successor in that office.
- ii. Requests should be directed to the Open Records Officer at the following address:

Title: Open Records Officer  
Address: Rutledge Borough Hall  
212 Unity Terrace  
Rutledge, Pennsylvania 19070  
Email: [openrecords@rutledgepa.org](mailto:openrecords@rutledgepa.org)

IV. Identification of Records

a. Records under the Right to Know Law are defined as information, regardless of physical form, that documents transactions or activities of the Borough that is created, received, or retained pursuant to law or in connection with a transaction, business, or Borough activity.

- i. Records in possession of the Borough are presumed to be public records unless, (1) the record is exempt under the Right to Know Law including without limitation the Non-Public Records, (2) record is protected by privilege, (3) record is exempt from disclosure under federal or state law or regulation or judicial order or decree.

- b. Under Right to Know Law, some records are not available to the public. A full list of exempted records may be found within section 708 of the Right to Know Law.

V. Procedure for Requesting Public Records

- a. The Borough Open Records Officer shall only fulfill written requests (including email, postal mail or hand delivery during business of the Borough Office) for access to records available pursuant to Right to Know Law under this policy. The request must be made in writing and properly address to the Borough Open Records Officer.
  - i. The Borough shall not accept:
    - 1. Informal requests
    - 2. Verbal requests; or
    - 3. Anonymous requests
- b. Requests submitted must describe the records sought is reasonable specificity to enable the Borough to ascertain which records are being requested.
- c. The Borough requires that all Right to Know requests are submitted on the uniform request form created by the Pennsylvania Office of Open Records, which is attached to this policy. All field must be completed for the form to be considered.
- d. Requests will on be considered to have been “addressed” to the Borough Open Records officer if:
  - i. The request is made on the uniform request form attached to this policy
  - ii. Is sent to the mailing address or email address of the Open Records Officer
  - iii. The subject line of an email or the heading or first sentence of any other written request contains the words “Right to Know” “RTK” or “Open Records”
- e. All requests that are addressed to the Borough Open Records Officer, but received by another employee, must be forwarded to the appointed Borough Officer

VI. Procedure for Reviewing Requests

- a. The Borough will make every effort to fulfill Right to Know requests within five (5) business days of when the requests are received by the Borough Open-Records Officer. Please note, the Borough Open Records Officer is a part time employee whose hours vary. The Open Records Officer will log all open record requests when received and date stamp them.
  - i. A request will be considered received when the Open Records Officer opens the request and date-stamps the request.
  - ii. The Borough Open Records Officer shall have five business days to fulfill the request from the request received date
    - 1. If a request cannot be fulfilled within five business days, the Borough Open Records Officer must send written notice, via postal mail or email to the requester stating:
      - a. The reason(s) why additional time is needed
      - b. When the request is expected to be fulfilled

- c. Any fees that may be required
  - iii. If the Borough receives a request for a public record that is not in possession of the agency, or with a person or entity with which the Borough has a contract that requires such person to retain Public Records, the Open Records Officer will:
    - 1. Notify the Requester, in writing, that the Borough does not possess the record requested; and
    - 2. Where possible, direct the request to an appropriate person in another agency
  - iv. If the Borough receives a request for records in possession of a person or entity with which the Borough has a contract that requires such person or entity to maintain Public Records, the Open Records Officer will send written notice to extend the Borough's time to respond to the request in accordance with the procedures above, and, if appropriate, notify the contractor of the request.

VII. Operating Procedures for Response to Requests

- a. Duties of the Borough Open Record Officer
  - i. The Borough Open Records Officer will:
    - 1. Upon receiving a written request, date the request, record the request in a spreadsheet, calculate the five-business day response period expiration date and make a note of that date on the request.
    - 2. Initiate a thorough search for the records requested
    - 3. Determine if the records are public under the Right to Know Law
    - 4. Notify legal counsel of the request when necessary
    - 5. Within five business days of the receipt of the request, either:
      - a. Prepare, review, sign, issue, and log and extension notice, if one is necessary
    - 6. Prepare, review, sign, issue, and log a written response
    - 7. Retain requests, information submitted with requests, related communications and the Borough's response for two years and discard requests after two years' time.
- b. Extension of Time to Respond to Record Requests
  - i. The Open Records officer may send notice to the Requester, indicating that the agency will need additional time to respond. The extension will not go past thirty days. An extension of time may be necessary due to:
    - 1. Request for access requires redaction of a public record due to the existence of confidential, proprietary, or otherwise restricted or protected information
    - 2. The request for access requires retrieval of a record stored in a remote location and the Open Records Officer must retrieve it

3. Timely response to the request cannot be accomplished due to bona fide and specified staff limitations
  4. Legal review of the request is necessary to determine if the record is public and subject to access under the Right to Know Laws
  5. The Requester has not complied with the borough policies
  6. Requester refuses to pay applicable fees; or
  7. The extent or nature of the request precludes a response as contained herein
- ii. The Borough Open Records Officer may obtain an additional extension of time to respond to requests, with the agreement of the Requester, or as otherwise permitted by law.
    1. The Open Records Officer shall document such an agreement in writing
- c. Grant of Requests for Records
- i. If the Open Records Officer determines that some or all of the requested records are available, a written response will grant access to records upon the payment of the fees, if any.
  - ii. When granting access to the records, the Officer may issue:
    1. A response that includes a copy of the requested record, either by postal mail or email.
    2. A response notifying the Requester that the records are available through publicly accessible means
    3. Response grants access to the record upon payment of applicable fees; or
    4. Response seeking to schedule a time for Request to inspect records
  - iii. If the Requester fails to retrieve the requested record within 30 days of the Borough's response, the Borough may dispose of any copies that have not been retrieved by the Requester and retain any fees paid.

A requester will be considered to owe all applicable fees for records produced in response to a request, regardless of whether Requester actually retrieves the record
- d. Denial of Request for Records
- i. If the Borough Open Records Officer or counsel determines that a request for records should be denied, in whole or in part, that denial must be issued in writing. The denial letter must include:
    1. A description of the record requested
    2. Specific reasons for the denial
    3. Contact information for the Open Records Officer, along with a signature or email-signature
    4. Date of the response; and
    5. The procedure to appeal the denial

e. Appeals

- i. The Right to Know law provides an appeal process through the Pennsylvania Office of Open Records
- ii. If a requester wishes to dispute the denial of a request, the Requester must notify the Pennsylvania Officer of Open Records in writing of the desire to appeal the Borough Decision.
  1. The Requester must include true and correct copies of the of the request and the Borough's response, it its entirety.
  2. The appeal must state the grounds upon which the Requester asserts that the records is public and must address any ground stated by the agency for delaying the response.
  3. The Appeal must be sent to:

Commonwealth of Pennsylvania  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street, Plaza Level  
Harrisburg, PA 17120-0225  
[openrecords@pa.gov](mailto:openrecords@pa.gov)

4. The appeal must be received by the applicable appeals officer. The appeal must be received within 15 business days of the mailing date indicated on the Borough response. If the Borough did not issue a timely response, the appeal must be filed within 15 business days of the date the request was deemed denied.
5. Unless the Requester otherwise agrees, the Appeals Officer will make a final determination within thirty days[?]

f. Fees

- i. The Borough will follow, as closely as possible, the fee schedule adopted by the Pennsylvania Office of Open Records<sup>2</sup>.
- ii. The Borough may, at its discretion, choose to waive some or all fees owed on a case-by-case basis

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<sup>2</sup> <https://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>