



BOROUGH OF POMPTON LAKES

25 Lenox Avenue, Pompton Lakes, New Jersey 07442

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Fax (973) 839-8132

December 22, 2025

VIA E-Mail opra+request-83379-1ab9b392@requests.opramachine.com

RE: Open Public Records Act/Common Law Request

Dear Trevor:

The Borough of Pompton Lakes ("Borough") records custodian received your Open Public Records Act ("OPRA") and common law request ("Request") on November 13, 2025. Your Request seeks the following records:

1. All Communications About the Social Media Commenting Policy

All communications involving any of the following individuals:

- Mayor Michael Serra
- Any Council Member
- Borough Administrator
- Borough Clerk
- Borough Attorney (Cassidy/Whoever currently holds the role)
- Any member of the Pompton Lakes Police Department
- Any Borough employee responsible for IT or social media
- Any communications with outside consultants, vendors, or legal advisors

that reference:

- The social media commenting policy
- Removing it
- Modifying it
- Its legality or constitutionality
- Complaints about it
- Public comments about it
- Threatened or potential legal action involving it
- Discussions that it may violate First Amendment rights
- Any discussion of public comments related to the policy

Date range: June 1, 2025 – present.

2. All Versions, Drafts, or Redlines of the Social Media Commenting Policy

Including:

- The original version
- Any revisions
- Any internal or attorney-proposed edits
- Any marked-up drafts
- Any proposed replacements
- Any policies considered but never published

3. All Records Related to the Decision to Remove the Policy

Including:

- Who ordered the removal
- When the decision was made
- Internal discussions
- Legal advice sought or received
- Any emails or texts discussing the risks of keeping the policy
- Any acknowledgement that the policy violated First Amendment protections

4. Legal Review or Opinions

All records of:

- Any review by the Borough Attorney
- Any legal memorandum, opinion, or guidance
- Any emails from or to the Borough Attorney regarding the policy
- Any determination of constitutional concerns

If legal advice was provided verbally, I am requesting:

- Any emails or notes referencing or summarizing that advice
- Any communications scheduling discussions about the policy

5. Records Related to Public Complaints, Questions, or Challenges

Any complaints, questions, or inquiries (formal or informal) from the public, including:

- Emails from residents
- Social media messages
- Internal communications referencing residents discussing the policy
- Any mention of council meeting comments relating to the policy

6. Instructions to Staff or IT

All directives, instructions, or communications to Borough staff, IT personnel, or social media managers regarding:

- Taking down the commenting policy
- Editing Borough social media pages
- Changing comment visibility or settings
- Hiding, deleting, disabling, or modifying public interaction features

7. Meeting Notes or Minutes

Any notes, minutes, or summaries (formal or informal) referencing discussion of the commenting policy, including:

- Council meeting notes not included in the public minutes
- Internal meeting notes
- Any workshop or closed-session discussion that referenced or touched upon the policy

With respect to item 2, the Borough conducted a good-faith search and is producing the enclosed nine pages of records that it identified as potentially responsive to your Request. Please be advised that the Borough is not in possession of any draft and/or redlined versions of the policy.

With respect to all remaining items, please be advised that your Request is overly broad, as it fails to identify with reasonable clarity any particular records sought. OPRA operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. § 47:1A-1. New Jersey courts have consistently

held that OPRA does not countenance open-ended searches of an agency's files. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div.), cert. denied, 190 N.J. 394 (2007). Consequently, a proper request under OPRA "must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents." See e.g., Spectraserv, Inc. v. Middlesex Cty. Utilities Auth., 416 N.J. Super. 565, 576 (App. Div. 2010); Bent v. Twp. of Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005). OPRA requests may not be a broad generic description of documents that require the custodian to search the agency's files and "analyze, compile, and collate" the requested information. Id.; see also Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 237 (App. Div. 2015) (holding that OPRA does not convert a custodian into a researcher, which would have been the effect of the request). Here, these items of your Request essentially seeking all records relating to the Borough's social media commenting policy and its removal is clearly invalid, and purports to require the Borough's records custodian to conduct research and make a determination as to whether or not various complaints, questions, or inquiries are "from the public" and in fact relate to the social media commenting policy, which is clearly beyond the legal obligations of a records custodian under OPRA. See Parreott v. Asbury Park School District, GRC Complaint Nos. 2016-20 & 2016-39 (Sept. 2017) (holding that the portion of the request seeking "all relevant documents" was invalid because it sought a class of various records and would have required the records custodian to conduct research in order to locate responsive records); see also Burke v. Ocean Cty., 2013 WL 6169154 (App. Div. 2013) (holding that an OPRA request is not the equivalent of lawsuit discovery). Moreover, items 3-7 are further invalid due to the lack of any date limitation. See Wares v. Passaic Cty. Prosecutor's Office, GRC Complaint No. 2014-330 (June 2015); Love v. Borough of Spotswood, GRC Complaint No. 2014-223 (Interim Order March 2015).

We further note with respect to the portion of your request seeking meeting notes and minutes, please be advised that same is further invalid as it would require the Borough's records custodian to conduct research. See Scheeler v. Woodbine Bd. of Ed., GRC Complaint No. 2014-77 (Feb. 2015) (holding that an OPRA request seeking minutes "in which the school board voted to approve Board funds," and minutes which there was discussion of litigation between the Complainant and Woodbine Elementary School were invalid requests); Valdes v. Union City Bd. of Ed., GRC Complaint Nos. 2011-147, 2011-157, 2011-172 & 2011-181 (July 2012) (concluding that 4 requests for minutes "that include a motion made by the UCBOE to approve the minutes . . ." were invalid under OPRA); Ray v. Freedom Acad. Charter School, GRC Complaint No. 2009-185 (Interim Order Aug. 2010) (ruling that an OPRA request for "approved meeting minutes regarding the Complainant's placement on Administrative Leave effective December 17, 2008" was an invalid request). Thus, the Borough is not legally obligated to ascertain which notes, minutes, or summaries reference discussion of the social media commenting policy.

In sum, items 1 and 3-7 plainly fail to comport with OPRA's specificity requirements. Moreover, to the extent that your Request for "legal reviews or opinions" may potentially be construed as seeking access to a specifically identifiable record(s), any potentially responsive materials are undoubtedly exempt from public access pursuant to the Borough's attorney-client privilege. See N.J.S.A. § 47:1A-1.1 (exempting "any record within the attorney-client privilege" from the definition of a "government record"). Lastly, to the extent that you are purportedly seeking these records pursuant to the common law right of access, your Request is similarly deficient for the same reasons set forth above.

Very truly yours,



Elizabeth Brandsness, RMC
Municipal Clerk/Deputy Administrator

Enclosures

ORDINANCE NO.: 16-31

**AN ORDINANCE ESTABLISHING A SOCIAL MEDIA POLICY
FOR THE BOROUGH OF POMPTON LAKES AND BOROUGH
DEPARTMENTS, AGENCIES, BOARDS, COMMITTEES, COMMISSIONS
AND/OR OTHER ENTITIES AUTHORIZED BY THE BOROUGH OF
POMPTON LAKES**

BE IT ORDAINED by the Mayor and Council of the Borough of Pompton Lakes, County of Passaic and State of New Jersey that the following Social Media Policy is hereby adopted.

**BOROUGH OF POMPTON LAKES
SOCIAL MEDIA POLICY**

1. AUTHORITY OF BOROUGH

No department, committee, commission or any other entity the existence of which is authorized by the Borough of Pompton Lakes may create and/or maintain a social media site (i.e. Facebook, LinkedIn, Twitter, Blogs, Instagram, etc.) on behalf of said entity without the express, written authorization and consent of the Borough through the Administrator or designee.

2. BOROUGH IDENTIFICATION

a. After authorization of a social media site, the site shall not use any Borough identifier, such as the Borough seal or logo, without the additional written authorization of the Borough Administrator or designee.

b. The site or blog shall conspicuously set forth a disclaimer that the views expressed on the site or blog reflect the views, opinions, and public statements of the department, agency, board or committee on whose behalf the site or blog is operated, and do not represent the views of the Borough. Any individual acting as author, administrator, or operator of a site or blog on behalf of a borough department, agency, board, committee or other sanctioned borough entity, shall use such site or blog only to present the views and opinions of the entity on whose behalf he or she is operating. Additionally, all social media sites shall provide reference via a hyperlink to the Pompton Lakes Social Media Commenting Policy, provided as Attachment A, which shall be posted on the Borough website.

c. Borough employees, officials, consultants, contractors, vendors or professionals shall not be referenced or quoted without the express consent in writing from any such individual, unless such references or quotes are public record.

d. Borough residents shall not be referenced or quoted without their express written consent, unless such references or quotes are public record.

e. Any department, committee, commission or any other entity the existence of which is authorized by the Borough of Pompton Lakes who creates and/or maintains a site shall provide the name(s) and contact information of individuals with the authorization to manage the site to the Administrator. Management of the site shall include the individual's ability to administer, edit, or moderate the site. Any changes in the form of additions, subtractions, or changes in management role of the site shall be provided to the Administrator or designee.

3. OPEN PUBLIC RECORDS ACT

a. The information set forth on approved social media sites and blogs is subject, in most cases, to the provisions of the Open Public Records Act. As such, the entity operating the site must comply with the Act and provide to the Clerk of the Borough such information as may be requested by the Clerk to answer inquiries under the Act.

b. Information published on any site or blog shall comply with all Borough rules and regulations and State law relating to confidentiality and disclosure of proprietary information.

4. MISCELLANEOUS

a. Sites or blogs which are being operated by borough employees shall be operated in such a manner that the operation does not interfere with the work commitments, priorities and responsibilities of the employee. No employee shall operate such site or blog during working hours without the permission of the Borough Administrator or designee.

b. The author or operator of any authorized site or blog shall, at all times, be respectful of Borough employees, officials, consultants, contractors, vendors, professionals and residents of the Borough.

c. The author or operator of any authorized site or blog shall not use any image, post or comment without authorization the source of same.

d. The author or operator of any authorized site may be liable for the content of the site or blog and may be subject to lawsuits in a Court of competent jurisdiction or other actions by persons or organizations aggrieved by the acts of the author or operator.

e. Employees authoring or operating authorized sites or blogs are subject to disciplinary action by the Borough for violation of this policy or the laws, rules or regulations of the Borough or the State or Federal Government.

f. The author or operator of an approved site shall comply with all copyright or similar laws and regulations and with the terms of service of the social media site.

Attachment A: Pompton Lakes Social Media Commenting Policy

The Borough of Pompton Lakes, its departments, and committees share notices about municipal government and its activities via social media to reach a broader audience and so that interested citizens can also share our information. We encourage you to submit your comments, questions or concerns, but please note this is a moderated online discussion site and not a public forum.

Pompton Lakes' contractual obligations with our social media platforms require it to enforce their policies with regard to posted comments. The guidelines below are, in part, Pompton Lakes' effort to comply with those obligations.

Please be courteous, respectful and relevant. Remember that your comments may be read by persons of any age, and are subject to open public records laws.

For those who like more detail, we've established the following guidelines. If your post violates them, it will be removed.

Once posted, Pompton Lakes reserves the right to delete submissions that contain:

- vulgar language;
- personal attacks of any kind;
- offensive comments that target or disparage any ethnic, racial or religious group.

Further, the Borough also reserves the right to delete comments that:

- are spam or include links to other commercial sites;
- are clearly off topic or are contrary to the intended purpose of the site;
- include identical or repeated comments;
- contain sexual content or links to sexual content;
- advocate illegal activity;
- promote particular services, products, or political candidates or organizations;
- infringe on copyrights or trademarks;
- have the potential to compromise the safety or security of the public or public systems;
- are made by persons identifiably under the age of 13;
- contain personally identifiable medical information; or

- contain personal personally identifiable information (PII) such as email addresses, social security numbers, phone numbers or any other information for which a person has a reasonable expectation of privacy.

Users who violate this policy may be banned from future commenting or blocked from the social site where the violation occurred.

Please note that the comments expressed on any Pompton Lakes social media site do not reflect the opinions and position of Pompton Lakes government or its officers and employees.

We recognize that the internet and social media are available 24 x 7. Comments are welcome at any time. However, due to the need to manage resources, questions and comments will typically be responded to during normal business hours: Monday - Friday, 8:30 AM to 4:30 PM.

If you have any questions or would like to report an issue regarding a Pompton Lakes social media site, please email administrator@pomptonlakesgov.com.

BE IT FURTHER ORDAINED as follows.

1. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.
2. If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.
3. This Ordinance shall take effect after approval of the Mayor or in accordance with law and publication and passage according to law.

NOTICE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the regular meeting of the Mayor and Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey held in the Municipal Building on the 13th day of July, 2016, and the same came up for final passage at the regular meeting of the Mayor and Borough Council held on the 17th day of August, 2016, at which time, after persons interested were given the opportunity to be heard concerning said Ordinance, the same was passed and will be in full force and effect in the Borough of Pompton Lakes after approval by the Mayor or in accordance with law.

APPROVED:

MICHAEL SERRA
MAYOR

ATTEST:

ELIZABETH BRANDSNESS, RMC
MUNICIPAL CLERK

§ 2-76. SOCIAL MEDIA POLICY.

§ 2-76.1. Authority of Borough. [Ord. No. 2016-31]

No department, committee, commission or any other entity the existence of which is authorized by the Borough of Pompton Lakes may create and/or maintain a social media site (i.e. Facebook, LinkedIn®, Twitter, Blogs, Instagram, etc.) on behalf of said entity without the express, written authorization and consent of the Borough through the Administrator or designee.

§ 2-76.2. Borough Identification. [Ord. No. 2016-31]

- A. After authorization of a social media site, the site shall not use any Borough identifier, such as the Borough seal or logo, without the additional written authorization of the Borough Administrator or designee.
- B. The site or blog shall conspicuously set forth a disclaimer that the views expressed on the site or blog reflect the views, opinions, and public statements of the department, agency, board or committee on whose behalf the site or blog is operated, and do not represent the views of the Borough. Any individual acting as author, administrator, or operator of a site or blog on behalf of a Borough department, agency, board, committee or other sanctioned Borough entity, shall use such site or blog only to present the views and opinions of the entity on whose behalf he or she is operating. Additionally, all social media sites shall provide reference via a hyperlink to the Pompton Lakes Social Media Commenting Policy, provided as Attachment A, which shall be posted on the Borough website and may be found attached to this chapter.
- C. Borough employees, officials, consultants, contractors, vendors or professionals shall not be referenced or quoted without the express consent in writing from any such individual, unless such references or quotes are public record.
- D. Borough residents shall not be referenced or quoted without their express written consent, unless such references or quotes are public record.
- E. Any department, committee, commission or any other entity the existence of which is authorized by the Borough of Pompton Lakes who creates/and/or maintains a site shall provide the name(s) and contact information of individuals with the authorization to manage the site to the Administrator. Management of the site shall include the individual's ability to administer, edit, or moderate the site. Any changes in the form of additions, subtractions, or changes in management role of the site shall be provided to the Administrator or designee.

§ 2-76.3. Open Public Records Act. [Ord. No. 2016-31]

- A. The information set forth on approved social media sites and blogs is subject, in most cases, to the provisions of the Open Public Records Act. As such, the entity operating the site must comply with the Act and provide to the Clerk of the Borough such information as may be requested by the Clerk to answer inquiries under the Act.
- B. Information published on any site or blog shall comply with all Borough rules and regulations and State law relating to confidentiality and disclosure of proprietary

information.

§ 2-76.4. Miscellaneous. [Ord. No. 2016-31]

- A. Sites or blogs which are being operated by Borough employees shall be operated in such a manner that the operation does not interfere with the work commitments, priorities and responsibilities of the employee. No employee shall operate such site or blog during working hours without the permission of the Borough Administrator or designee.
- B. The author or operator of any authorized site or blog shall, at all times, be respectful of Borough employees, officials, consultants, contractors, vendors, professionals and residents of the Borough.
- C. The author or operator of any authorized site or blog shall not use any image, post or comment without authorization the source of same.
- D. The author or operator of any authorized site may be liable for the content of the site or blog and may be subject to lawsuits in a Court of competent jurisdiction or other actions by persons or organizations aggrieved by the acts of the author or operator.
- E. Employees authoring or operating authorized sites or blogs are subject to disciplinary action by the Borough for violation of this policy or the laws, rules or regulations of the Borough or the State or Federal Government.
- F. The author or operator of an approved site shall comply with all copyright or similar laws and regulations and with the terms of service of the social media site.

ADMINISTRATION

2 Attachment 1

Attachment A Pompton Lakes Social Media Commenting Policy (Section 2-76.2) [Ord. No. 2016-31]

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Further, the Borough also reserves the right to delete comments that:

- are spam or include links to other commercial sites;
- are clearly off topic or are contrary to the intended purpose of the site;
- include identical or repeated comments;
- contain sexual content or links to sexual content;
- advocate illegal activity;
- promote particular services, products, or political candidates or organizations;
- infringe on copyrights or trademarks;
- have the potential to compromise the safety or security of the public or public systems;
- are made by persons identifiably under the age of 13;
- contain personally identifiable medical information; or
- contain personal personally identifiable information (PII) such as email addresses, social security numbers, phone numbers or any other information for which a person has a reasonable expectation of privacy.

POMPTON LAKES CODE

Users who violate this policy may be banned from future commenting or blocked from the social site where the violation occurred.

Please note that the comments expressed on any Pompton Lakes social media site do not reflect the opinions and position of Pompton Lakes government or its officers and employees.

We recognize that the internet and social media are available 24 x 7. Comments are welcome at any time. However, due to the need to manage resources, questions and comments will typically be responded to during normal business hours: Monday — Friday, 8:30 a.m. to 4:30 p.m.

If you have any questions or would like to report an issue regarding a Pompton Lakes social media site, please email administrator@pomptonlakesgov.com.

facility and having questions answered she feels Council made the right decision to take a "wait and see" approach until additional guidelines are defined.

- commented on the Borough's social media policy for posting and managing content within Borough groups and committees.

Discussion

Mr. Ruitenbergh read the current Ordinance and stated the policy as follows; Council approves the group to have a social media page; the group designates one person to be the administrator who manages the content.

Mayor Serra stated the Borough has acquired a Public Information Officer since the Ordinance was adopted and explained the procedure that is currently being followed. Councilman DeLine stated when the Ordinance was written the Borough did not have a Public Information Officer and each group chose one administrator who posted and managed content. Councilman DeLine stated the Borough has since hired a Public Information Officer and suggested the Ordinance be revised. Councilwoman Polidori agreed the Ordinance should be reexamined.

COUNCILWOMAN REICHER:

Councilwoman Reicher reported on the following.

- questioned who would be performing during the Library Concert scheduled for July 15, 2021. Mayor Serra responded and stated "Sharpe Edge" would be performing.
- commented on technical issues she has experienced with her cable service. Thanked Mayor Serra for the contact information he provided to Pompton Lakes residents. Councilwoman Reicher stated she reached out to the representative within the cable company and the technical issues she was experiencing with her cable service were resolved.
- the Business Improvement District is sponsoring discount coupons for local businesses and encouraged residents to participate and shop local
- acknowledged CERT volunteers who spent 600 hours at the Wayne Covid Vaccine site
- announced the outside of the Roth building located on Wanaque Avenue is scheduled to be painted
- commented on the treatment of Pompton Lake and ways to engage surrounding communities to partake and assist with cleanup of their side of lake property Mayor Serra stated the Township of Wayne has been approached in the past and their Governing Body has resisted with treatment for their portion of the lake.
- commented on the *Safe Routes to School* Grant and her interest in participating and filing an application for the Grant.

Discussion

Councilman DeLine offered details for the Department of Transportation Grant promoting pedestrian safety and stated the intention of the Grant is to encourage children to walk and bicycle to elementary and middle schools by improving safety conditions on sidewalks and crossings.

Councilman DeLine stated the Street Smarts campaign was introduced years ago making the Town a place qualified to promote pedestrian safety. Councilman DeLine stated the Borough is well suited for this Grant to implement and enhance opportunities for walking and biking.

After further discussion, Councilwoman Reicher stated she would like the Grant application to be given serious consideration. The deadline to submit an application is October of 2021.

Mr. Boyle stated the filing for the application is in October and once determined to be a viable program the Borough will move forward.

COUNCILMAN VENIN:

Councilman Venin had no report.

