



**PERSON COUNTY GOVERNMENT**  
**PUBLIC RECORDS REQUEST POLICY**

(Adopted February 5<sup>th</sup>, 2024)

BE IT RESOLVED by the Board of County Commissioners for Person County that the following policy and process applies to the receipt, review and processing of public records requests submitted to Person County Government.

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## **PUBLIC RECORDS REQUESTS POLICY**

### **I. PURPOSE**

The purpose of this policy is to aid in determining what is a public record, protocol for updates and responses for requestors, general protocol for determining which departments need to respond, and protocol for how the County Manager's Office, County Attorney and other relevant staff are to be used in responding to public records requests, among other items listed below. It is the policy of Person County Government to comply with all requests for public records in accordance with the law. Public records are the property of the people.

### **II. PUBLIC RECORDS**

#### **1. Public Records Defined**

North Carolina General Statute (NCGS) 132-1(a) defines public records as "all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government."

According to NCGS 132-6.2(e), "Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist." Requestors should be aware that the Public Records Policy does not require the County to do research, analyze data, or answer written questions. Public records requests shall not replace administrative processes for land due diligence review, such as zoning verification letters and environmental site assessments.

#### **2. Protected Records**

All records maintained by Person County Government are public unless they are exempt from disclosure under North Carolina Public Records Law. If a records request is denied, the County will cite the appropriate law that prohibits the disclosure.

Exempted records include, but are not limited to:

- Some confidential communications from the attorney to the client within the scope of the attorney-client relationship and as set forth in NCGS 132-1.1(a).
- Criminal investigation records and records of criminal intelligence information, as provided in NCGS 132-1.4 (active and closed investigations).
- Sensitive public security information, including specific details of public security plans and arrangements, detailed plans and drawings of public buildings and infrastructure facilities, and certain plans to prevent and respond to terrorist activity, as provided in NCGS 132-1.7, and technology security information, as provided in NCGS 132-6.1.
- Records of minors per NCGS 132-1.4, 132-1.12, and 7B-2901.

- All information contained in County employees' personnel files maintained by the County is confidential in accordance with NCGS 153A-98, except information deemed by NCGS 153A-98(b) to be a matter of public record. These rules apply to personnel information for applicants, current employees, and former employees.
- Tax information pertaining to a taxpayer's income or gross receipts may not be disclosed, as provided in NCGS 132-1.1(b).
- Social security numbers and other personal identifying information is confidential and unlawful to disclose to the public. In addition to social security numbers, "personal identifying information" includes: employer taxpayer identification numbers; drivers' license numbers, state identification card numbers, and passport numbers; checking, savings, credit, and debit account numbers; personal identification code (PIN) numbers used to access financial resources; digital signatures; any other numbers or information that can be used to access a person's financial resources; biometric data; fingerprints; and passwords, all as provided in NCGS 132-1.10, NCGS 75-61, and NCGS 14-113.20.
- Certain information collected by soil and water conservation districts from farm owners, animal owners, agricultural producers or owners of agricultural land that is confidential under federal or state law as set forth in NCGS 139-8.2.
- Trade secrets and electronic payment account numbers are protected as set forth in NCGS 132-1.2. (Note that to protect a "trade secret" detailed requirements must be met.)
- The seal of an architect, engineer, or land surveyor when that seal has been submitted for project approval under Part 5 of Article 19, Chapter 160A (Building Inspections) as set forth in NCGS 132-1.2.
- Certain "trial preparation materials" are protected as provided in NCGS 132-1.9. If records are created for or at the request of an attorney for the County when the County is engaged in litigation or litigation is anticipated, these records are likely protected "trial preparation materials." The County Attorney should be consulted if there is a request for such records.
- Names and addresses of complaining witnesses to crimes must be temporarily withheld if release of the information is reasonably likely to pose certain threats to the witnesses or materially compromise the investigation, as provided in NCGS 132-1.4.
- Certain economic development incentives and public records relating to the proposed expansion or location of specific business or industrial projects are temporarily protected, but the County must make certain prior disclosures to applicants, as provided in NCGS 132-1.11 and NCGS 132-6(d).
- Closed session meeting minutes that are deemed protected under NCGS 143-318.10(e).
- Public enterprise billing information, as provided in NCGS 132-1.1(c).
- Records protected by copyright. The County must permit inspection of records protected by copyright, but cannot make copies of copyrighted records, pursuant to 17 U.S.C. § 106(1).

### **III. RESPONSIBILITY FOR RECORDS**

The County department that is the custodian of the requested record will be assigned the public information request. Each County department will have a departmental liaison who assists with gathering information, preparing responses and communicating with management, IT, the County Attorney and requestors, as needed. The County Attorney will be involved in requests where they are the custodian of the records or where legal determinations need to be made.

Person County employees who assist in providing information to public records requests will be required to complete formal training in public information request protocol and public records law.

#### **IV. RETENTION AND DISPOSITION OF PUBLIC RECORDS**

North Carolina's Public Records law requires that public records in all formats be managed in a manner that protects their integrity and allows public inspection and copying. Except for public records that are retained in office permanently, such as the minutes of the Board of Commissioners, the County may destroy public records, both physical and digital, after the records are retained for the correct time periods in the records retention schedules published by the North Carolina Department of Natural and Cultural Resources and approved by the Person County Board of Commissioners.

#### **V. RECORDS REQUESTS**

##### **1. Responding to a Public Records Request**

According to NCGS 132-6(a), "Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law."

A public records request can be placed with any County employee or department; however, for the best accountability and turnaround time, the County recommends submitting the Public Records Request Form directly to the County website at <https://www.personcountync.gov/government/public-records-information/public-records-request-form>. Please describe the information you are seeking, including as much detail as possible and the format in which you would like to receive copies of records.

The County will work on a timely, thorough, and transparent response to all records requests. In accordance with NCGS 132-6.2(d), however, County staff are not required "to respond to requests for copies of public records outside of its usual business hours". The requestor will, however, receive an email response acknowledging the request within two business days after submission of the Public Records Request Form that informs the requestor of next steps and advises them to take into account the volume of records requested. If additional information is required before beginning to process the request, the requestor will be contacted via email. Additionally, within ten (10) business days of receipt of the initial records request, the County will respond by:

- providing copies of the records in digital or physical format, or providing access to the records;
- if there are no responsive records, providing a written statement that a search was made, no responsive records were located, and/or providing the requestor with additional information or resources for how information related to their request may be obtained;
- if the responsive records are exempt from the Public Records law, either denying access to the entire records or providing the records with the exempt information redacted;
- informing the requestor that more time is needed and providing an estimated deadline for the response; or
- if records are exempt, the County will provide the legal justification for denial of access to the records.

If the County makes a follow-up inquiry to clarify the scope of the request and no response is provided within ten (10) business days, the County will proceed to provide the records that are clearly within the scope of the request. Failure to respond to a follow-up inquiry may result in a delay in the provision of records or in an incomplete response being provided by the County.

##### **2. Responding to Requests for Emails and Other Digital Communications**

Upon receipt of a public records request for emails, the County will work with the requestor and IT Department to determine the appropriate search keywords and date range for a search of the County's email and documents archive. County employees will review identified emails and other requested documents. As with other records that are exempt from disclosure under state or federal laws, County staff may consult with the County Attorney regarding denying access to protected emails and other documents. When necessary, the County will request communications or documents from Commissioners or other members of appointed boards that may not be maintained in the County's technology systems for appropriate requests.

### **3. Redacting Protected Information**

If the content of a record is partially public and responsive to the request and partially exempt, the exempt portion of the content will be redacted. Redaction is "the process of masking or removing sensitive information in a document before releasing it for public use" (ARMA International, Glossary of Records Management and Information Governance Terms, 5th ed., 2016).

### **4. Special Service Charge for Producing Records**

In most cases, public records are easily retrievable and provided electronically via email at no cost to the County or requestor. Pursuant to NCGS 132-6.2(b), a special service charge can be applied "if the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested ...". The special service charge "shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency" (NCGS 132-6.2(b)).

The special service charge will be applied when searching, retrieving, copying, and refiling records for a public records request or a group of requests submitted by a single requestor the same business day requires more than four (4) hours of an Information Technology Department employee's time or more than four (4) hours of clerical or supervisory assistance. The requestor will not be charged for time spent redacting confidential information. The special service charge will be the hourly rate in accordance with the lowest paid employee who would be conducting the work.

Copies of paper plan sets or oversized materials not stored electronically, may also incur a special service charge.

The County will provide the requestor with a written estimate and extend the option of the requestor to pay the charge or be granted the opportunity to narrow the scope of the request to reduce or avoid the service charge. The requestor is required to pay the County Finance Department in advance of fulfillment of the request. If the time taken exceeds the estimate, an additional payment will be required. Unused portions of the deposited funds will be refunded. Payment can be made in-person or by check made payable to "Person County Government" mailed to:

Person County Government  
Finance Department  
304 South Morgan Street  
Roxboro, North Carolina 27573

If the requestor wishes to dispute the special service charge, they may ask the County Manager to reduce or waive the fee, which the County Manager may do as they deem reasonable and/or appropriate.

## **5. Disputing a Records Request and Appeals Process**

If a requestor has a concern or complaint regarding the initial response sent, the County asks that the requestor first contact the County Manager's Office to file a complaint within ten (10) business days of receiving the response to the public records request. The first appeal will be submitted to the Assistant County Manager or their designee, who will review the records request, the information provided, and the dispute, and make a determination based on the appeal request. If further actions are requested beyond the first step, the appeal can be presented to the County Manager or their designee for review and determination.