

# Public Record Request Policy

## Policy Purpose

This policy provides a uniform process for managing, processing and responding to public records requests in compliance with the North Carolina Public Records Act (N.C.G.S. Chapter 132) and all applicable confidentiality laws. Circumstances may vary and each records request should be evaluated on a case-by-case basis.

In the event of a conflict between this policy and local, state, or federal law, the applicable law shall supersede this policy.

## Introduction to Public Record Requests

Chapter 132 of the North Carolina General Statutes (the “Public Records Act” or the “Act”) sets forth the general requirements for Union County’s response to public records requests. A public records request is a request to inspect, or obtain a copy of, any public record. Under the Act, every custodian of a public record shall permit inspection and examination of the public record. The Act requires a response to a public records request “as promptly as possible,” but it does not set forth a required time limit to provide a response. What constitutes a reasonable or prompt response will depend on the nature of the request and the available personnel and other resources available to the agency that receives the request.

## General Definition of “Public Record”

The definition of what constitutes a “public record” under the Act is construed very broadly, with the Act essentially defining “public records” to include all documents and materials (regardless of physical form/characteristics or where stored) made or received in connection with the transaction of public business. This includes all records related to County business, unless there is a statutory exception from required public disclosure.

## Types of Exceptions to Public Records Disclosure

- Confidential Records | Government records which the law provides cannot be disclosed to the public and may only be disclosed to certain persons or entities with express authorization. A non-exhaustive list of examples of such records include the following:
  - Personnel file documents (see top five exceptions below for additional detail)
  - Medical documents (see top five exceptions below for additional detail)
  - Trade secrets (as defined by statute)
  - Social services records
  - Certain library records
  - Engineering seals related to building code permits

- Non-Public Records (non-confidential) | Government records which may be disclosed to the public in the discretion of the records custodian. A non-exhaustive list of examples of such records include the following:
  - Criminal investigation records
  - Economic development records
  - Public security records
  - Informal bids prior to award
  - Information of minors participating in local government park programs
  
- Blended Public Records with Confidential and Non-Public Information | Information contained within an otherwise public record which is either:
  - Confidential | This information **must** be redacted from a public record prior to release to the public; or
  - Non-public (non-confidential) | This information **may** be redacted (in the record custodian's discretion) from the public record prior to release to the public.

## Public Record Requests Requiring Creation of Records or Research

The Act provides that a response is not required to a public records request which requires creating or compiling a record that does not exist. This means there is no requirement to create a record that has been requested if the record does not already exist. For example, this could be a database or list the County does not already create and maintain. If it does not already exist, the County is not required to create and provide that record. There is also no requirement that a public records custodian perform research or answer questions in response to a broad request for records that does not identify the records being requested with some reasonable particularity. The records custodian must be able to reasonably identify responsive records based upon the request. This means records requests should be specific in scope and nature, which will allow the records custodian to efficiently search for any records responsive to the request.

## Top Five Exceptions from Public Records Disclosure

There are a number of exceptions to the required disclosure of public records. There are many exceptions which may be specific to one department or function. However, there are a number of record types which different departments may encounter with some frequency. Below is a top-five list of common exceptions for records or information under public records law.

1. **Personnel File Information** | Other than the basic list of information with respect to each county employee which is public, such as employee name, age, position, title, and salary (the entire list of public information is set forth in G.S. § 153-98(b)), personnel file information is considered confidential. Personnel file information is construed very broadly and includes most information about county employees.
2. **Social Security Numbers and Other Personal Identifying Information** | This is information, including social security numbers, as identified in G.S. § 132-1.10 and other sections of the Public Records Act, which is confidential and must be redacted from an otherwise public record prior to release. The exception does not include phone numbers or email addresses.



3. **Trial Preparation Materials** | These are confidential documents and information which were prepared in anticipation of litigation. These may include records created prior to the actual commencement of a legal action.
4. **Criminal Investigation Records** | These are non-public records (unless specified as public in G.S. §§ 132-1.4 or 132-1.4A) compiled by law enforcement agencies for the purpose of attempting to prevent or solve violations of the law. Law enforcement agencies include not only the Sheriff's Office, but any department or unit responsible for investigating, preventing, or solving violations of the law, such as Building Code Enforcement, Zoning, and Environmental Health.
5. **Medical Information** | Medical records of employees, medical records of public health patients, certain other public health records, and emergency medical services records (which may include certain parts of 911 call information) are all considered confidential records.

## Union County Process for Response to Public Records Requests

The process for responding to public records requests is generally as follows:

1. Any person, resident or nonresident, may request public records from the County.
2. Persons requesting public records are not required to state the purpose for which they are requesting the record.
3. Public records requests made to any County employee or County Department shall be directed to Public Communications.
4. The County's preferred method for receiving public records requests is via [unioncountync.nextrequest.com](http://unioncountync.nextrequest.com). Per North Carolina law, however, there is no requirement for the method of making or submitting a request. Requests can be made verbally, in writing, by fax, or by email. Departments receiving requests may ask individual requesters to submit their requests via an approved Internet facing request form, but may not deny a request based upon the format submitted. Request(s) may also be made to the County via U.S. mail, e-mail, fax, or hand delivery.
5. The requestor shall receive a response as soon as reasonably possible, based on the specificity and scope of the request. North Carolina law does not dictate a required timeframe for responding to a records request.
6. A log shall be maintained to track all public records requests the County receives. This log will be used to assist in managing requests and to support the efficient use of County resources. It will include such information as the status of the County's response, the date the documents are produced and the fees and payments, if any, associated with the production. Records requests and related responses will be kept in accordance with the County's approved and adopted records retention schedule. Public Communications shall oversee the storage of records requests, responses, and invoices for records.
7. In most cases, records are provided electronically at no cost to the requestor. However, fees may be imposed for the actual costs to Union County of producing the records. Fees may also be charged for certified copies of documents. Further, when a records request response requires significant staff effort to process, clerical aid or information technology assistance, a special service charge is applied, as further explained below, pursuant to NCGS § 132-6.2(b). If paper copies are requested, the County will provide copies to the requestor for a fee of \$0.50 per page, or at the currently prevailing rate as determined by the County. If mailing is requested, the cost of postage will be



charged. The County may require prepayment of paper copying and postage fees if the total fees exceed \$100.00.

8. The County may respond to simple records requests before more complex, time-consuming requests that require further review prior to release as a result of the number of records, or redaction required in order to fulfill the request.
9. Complex records requests, requests that result in a large number of records, and records that need redaction are reviewed on a first-come, first-served basis.
10. When a Public Records Request response requires significant staff effort to process, clerical aid or information technology assistance, a special service charge may be applied, pursuant to NCGS §132-6.2(b) and other applicable law. Some records, such as well and septic records, and records managed by the Fire Marshal's Office, require a fee to process regardless of staff time required to produce them. These fees are listed on [unioncountync.nextrequest.com](http://unioncountync.nextrequest.com).
11. All records are reviewed prior to release.
12. Once records have been reviewed and are ready for release, Public Communications documents the request as resolved.

## Request Scope

All requests, to the extent possible, should include the following information:

1. Date of the request
2. Name of the requester (First Name and Last Name)
3. Phone number of the requester
4. Mailing address of the requester
5. Email address of the requester (if available)
6. A description of the requested records with sufficient detail to enable the location of the requested information to be determined. This may include:
  - a. Custodian of the record
  - b. Name or title of the record
  - c. Date or date range of the record(s)  
The preferred medium or format for record delivery or inspection. (The available formats may be limited for records that require redaction. Union County must ensure that the records are redacted in a manner that ensures the requester cannot determine the confidential information through image manipulation or removal of field protections.)

If an email address is provided, the requested records will be provided in electronic format, unless otherwise requested. No records request should be refused for failure to provide this information, unless the requester fails to provide a method by which the County may contact them or fails to provide any description of the records requested such that the County is entirely unable to identify which records are sought.

## Special Service Charges

Pursuant to NCGS §132-6.2(b) and other applicable law, Union County may charge a special service charge for any request that requires extensive use of information technology or extensive clerical or supervisory assistance by County personnel.



If a request is estimated to take more than four hours of collective staff time to produce, the County will charge a reasonable fee of \$40 per hour (in excess of the initial four hours) to search, locate, collect, sort, copy, and prepare the records to be produced.

The special service charge will be in addition to any copying fees that are assessed. An estimated or not-to-exceed amount for a special service charge will be provided to the requester in advance. Payment must be obtained prior to responding to the request. If costs exceed the estimate, the requestor will be notified, and additional approval and payment will be obtained, prior to the completion of the request.

Multiple requests regarding the same topic made within a short period of time (five business days) from the same individual or organization will be treated as a single request for the purposes of determining whether special service fees are levied. A public records request is not continuing in nature and only applies to public records that exist as of the date the request is submitted. If additional records are created after the date of the requestor's original request, then the requestor must submit a new public records request.

## Applicability

This policy applies to all records requests received by Union County or its departments, with the exception of the Sheriff's Office and Board of Elections, which process records requests received by their departments. All internal and departmental procedures must comply with this policy.

## Updates

This policy may be updated from time to time by the Manager or designee in consultation with the County Attorney or designee.

Adopted by the Board of Commissioners on November 18, 2024

