



LINCOLN COUNTY PUBLIC RECORDS POLICY

ADOPTED: OCTOBER 15, 2024

A. PURPOSE

The purpose of this policy is to aid in determining what is a public record, general protocol for determining which departments need to respond, and protocol for how the County Administration shall be used in responding to public records requests, among other items listed below. It is the policy of the Lincoln County to comply with all requests for public records in accordance North Carolina's Public Records Law.

B. PUBLIC RECORDS

1. Public Records Defined.

N.C.G.S. § 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 N.C.G.S. § 132-6.2(e), nothing in Chapter 132 of the General Statutes "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." This Public Records Policy and State law does not require the County to do research, analyze data, or answer written questions.

2. Protected Records.

All records maintained by Lincoln County shall be considered public unless they are exempt from disclosure under the North Carolina Public Records Law (Chapter 132 of the General Statutes).

Exempted records include, but are not limited to:

- Any written communications (and copies thereof) to any board, council, commission of the county made within the scope of the attorney-client relationship concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of proceeding to which the governmental body is a party or by which it is or may be directly affected, as provided in N.C.G.S. §132-1.1(a).
- Records of criminal investigations conducted by public law enforcement agencies, records of criminal intelligence information compiled by public law enforcement

agencies, and records of investigations conducted by the North Carolina Innocence Inquiry Commission, as provided in N.C.G.S. § 132-1.4.

- Law enforcement agency recordings, as provided in N.C.G.S. § 132-1.4A.
- 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 N.C.G.S. § 132-1.7, and technology security information, as provided in N.C.G.S. § 132-6.1.
- Records of minors per N.C.G.S. § 132-1.12, and § 7B-2901 (applicable to Court records).
- All information contained in the County employees' personnel files maintained by the County is confidential in accordance with N.C.G.S. § 153A-98, except for that information deemed by to be a matter of public record N.C.G.S. § 153A-98(b). 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 N.C.G.S. § 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 N.C.G.S. § 132-1.10, N.C.G.S. § 75-61, and N.C.G.S. § 14-113.20.
- Trade secrets and electronic payment account numbers are protected as set forth in N.C.G.S. § 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 Article 11, Chapter 160D of the General Statutes (Building Inspections) as set forth in N.C.G.S. §132-1.2.
- Certain "trial preparation materials" are protected 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, as provided in N.C.G.S. § 132-1.9. The County Attorney should be consulted if there is a request for such records, and if it is determined to be trial preparation materials, then the County Attorney shall provide a written justification for the assertion that the public record was prepared in anticipation of a legal proceeding.
- Certain economic development incentives are temporarily protected, but the County must make certain prior disclosures to applicants, as provided in N.C.G.S. § 132-1.11 and N.C.G.S. 132-6(d).
- Minutes or an account of a closed session conducted in compliance with N.C.G.S. §143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session, pursuant to N.C.G.S. § 143-318.10(e). The County Attorney should be consulted for any request of closed session minutes and shall make the final determination of whether or not said minutes may be released.
- Public enterprise (water and wastewater) billing information, as provided in N.C.G.S. § 132-1.1(c).
- The County must permit inspection of records protected by copyright, but cannot make copies of copyrighted records, pursuant to 17 U.S.C. § 106.

C. RECORDS REQUESTS.

1. Responding to a Public Records Request.

According to N.C.G.S. 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 shall be placed through the County's Public Records Request Portal located on the County's website.

Public Records Request Process:

The requestor shall describe the information they are seeking, including as much detail as possible. The County will work on a timely, thorough, and transparent response to all records requests. The requestor will receive an email response acknowledging the request within two business days after receipt of the request from the County's website portal. If the County requires additional information before beginning to process the request, the County will contact the requestor.

Within ten (10) business days of receipt of the records request, the County will respond by:

- a) Providing the records in the format requested by the requestor;
- b) If there are no responsive records, providing a written statement that a search was made and no responsive records were located;
- c) If the responsive records are exempted records as defined herein, or pursuant to Chapter 132 of the General Statutes, either denying access to the entire records or providing the records with the exempt information redacted; or
- d) Informing the requestor that more time is needed and providing an estimated deadline for the response. If a response takes longer than ten (10) business days, the County will contact the requestor to provide an update on the request.

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

Upon receipt of a request for emails the requestor shall define dates and keywords, the County will direct the appropriate staff to pull the described information from the County's email archive. Extensive dates and search information will require additional time for review and processing. As with other records that are exempt from disclosure under state or federal laws, the County shall deny access to protected information within emails. The County will provide the legal justification for denial of access, upon request.

D. 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, 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 subsequently adopted by the Lincoln County Board of Commissioners.

E. RESPONSIBILITY FOR RECORDS.

The County department that is the custodian of the requested record will be assigned the public information request. The County Attorney will be involved in requests where it is the custodian of the records or where legal determinations must be made.

1. 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 shall be redacted. Redaction is "the process of masking or removing sensitive information in a document before releasing it for public use." Any request for justification of redaction may be made by the requestor following receipt of the requested information.

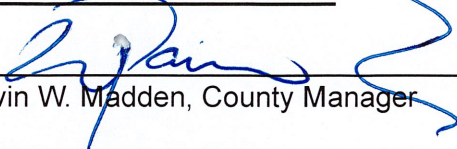
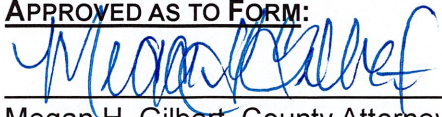
2. Additional Service Charge for Producing Records.

In most cases, public records are reasonably retrievable; however, the County maintains a fee schedule for public records request which defines how charges will be assessed based on the extensiveness of the record and the time necessary to collect the information.

If the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of Lincoln County, or if producing the record in the medium requested results in a greater use of information technology resources than that established by Lincoln County for reproduction of the volume of information requested, then Lincoln County may charge a special service charge, in addition to the actual cost of duplication. A determination of whether or not the request is extensive shall be determined by the Department Director in consultation with the County Manager. A calculation of the Additional Service Charge shall be determined based on the Lincoln County Administrative Fee Schedule.

3. Disputing a Records Request and Appeals Process

If a requestor has a concern or complaint regarding the response sent, the requestor shall file a complaint with the County Manager's Office within ten (10) business days of fulfillment of the request. The County Manager, or their designee, will review the request, the information provided, and the dispute. A final determination shall be issued by the County Manager, or their designee, within 15 business days of receipt of the appeal. Any determination made hereunder is considered final.

OFFICIAL APPROVAL	
COUNTY MANAGER APPROVAL:  _____ Davin W. Madden, County Manager	Date Approved: <u>10/15/24</u>
APPROVED AS TO FORM:  _____ Megan H. Gilbert, County Attorney	Date Approved: <u>10/15/24</u>