



## **PUBLIC RECORDS POLICY**

### **A. 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 Town Attorney is to be used in responding to public records, among other items listed below. It is the policy of the Town of Lake Lure to comply with all requests for public records in accordance with the law. Public records are the property of the people.

### **B. 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 country, 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 Town to do research, analyze data or answer written questions.

## 2. Protected Records

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

Exempted records include but are not limited to:

- Confidential communications from the attorney to the client within the scope of the attorney-client relationship as defined in NCGS 132-1.1.
- 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.
- Records of minors per NCGS 132-1.4, 132-1.12 and 7B-2901.
- All information contained in Town employees' personnel files maintained by the Town is confidential in accordance with Chapter 160A, Section 168 NCGS except information deemed by the NCGS 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.
- Social security numbers and 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.

- 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 Town when the Town is engaged in litigation or litigation is anticipated, these records are likely protected 'trial preparation materials.' The Town 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 are temporarily protected, but the Town 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).

### **C. RESPONSIBILITY FOR RECORDS**

The Town department that is the custodian of the requested record will be assigned the public information request. The Town Attorney will be involved in requests where he/she is the custodian of the records or where legal determinations need to be made.

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

The law requires that public records be retained in a manner that allows public inspection and copying and may not be destroyed for specific periods of time. Public records may be destroyed after they have been retained for the correct time period according to the records retention schedule published by the State of North Carolina.

## **E. RECORDS REQUESTS**

### **1. Responding to a Record Request**

The law does not state a specific response time. 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.”

The custodian will work on a timely, thorough and transparent response to all records requests. If a response takes longer than anticipated, the custodian will contact the requestor to provide an update on his/her request. Please take into account the volume of records requested. The requestor may check the status of his/her request by contacting the custodian.

A records request can be placed with any Town employee or department; however, for the best accountability and turn-around time, the Town recommends filing a written public information request directly through the Town Clerk via e-mail: [townclerk@townoflakelure.com](mailto:townclerk@townoflakelure.com). Please describe the information you are seeking, including as much detail as possible and the format in which you would like the records delivered. Requests may also be submitted through the Town of Lake Lure’s website at: [www.townoflakelure.com](http://www.townoflakelure.com) or mailed to:

Public Records  
Town of Lake Lure  
PO Box 255  
Lake Lure, NC 28746

The requestor will be deemed unresponsive and his/her public records request will be closed if two weeks have passed (10 business days) and he/she has not responded to any inquiries of the custodian.

**2. 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.

**3. Special Service Charge for Producing Records**

In most cases, public records are easily retrievable and provided electronically via e-mail at no cost to the Town 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, then the agency may charge, in addition to the actual cost of duplication, a special service charge, which 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.” When the public records request results in a minimum of 1,000 emails or hard copies, the special service charge will be applied.

**The special service charge will be the hourly rate in accordance with the lowest paid employee who would be conducting the work.**

The custodian will provide the requestor with a written estimate and extend the option of the requestor paying the charge. The requestor will be granted the opportunity to narrow the scope of the request. The requestor will be required to pay the Town of Lake Lure in advance of the request being fulfilled. If necessary work exceeds the estimate, an additional deposit will be required. Unused portions of the deposited funds will be refunded. Payment can be made in-person at the Lake Lure Town Hall located at 2948 Memorial Highway or a check made payable to “The Town of Lake Lure” and be mailed to the Town of Lake Lure, PO Box 255, Lake Lure, NC 28746. If the requestor wishes to dispute the special service charge, he/she may file an appeal to the Lake Lure Town Council within ten (10) business days of receiving the response to his/her request.

#### **4. Disputed Records Requests: Appeals Process**

If a requestor has a concern or complaint regarding the initial response sent, the Town asks that the requestor first contact the Town Clerk to file an appeal within ten (10) business days of receiving the response to the public information request. The Town Clerk can be reached Monday-Friday, 8am-5pm by telephone: 828-625-9983 or e-mail: [townclerk@townoflakelure.com](mailto:townclerk@townoflakelure.com). The appeal will be submitted to the Lake Lure Town Council, who will review the records request, the information provided, and the dispute and make a determination based on the appeal request.

Adopted this 12<sup>th</sup> day of February, 2019.