

Public Record Requests:
Policy and Procedures

1. In General.

Lee County adopted policies and procedures regarding public records on July 21, 2008. The previous version of the policy and procedures are now replaced with these policies and procedures, adopted this the 24th day of July, 2023.

Lee County is fully committed to satisfying both the letter and spirit of the North Carolina Public Records Law, N.C.G.S. 132-1 *et seq.* The purpose of these policies and procedures is to ensure the equal, fair, and consistent treatment of all citizens who request public records maintained by Lee County. Pursuant to N.C.G.S. 132-6.2(e), a public agency is not required to create or compile a record that does not exist or to require a public agency to put into electronic medium a record that is not kept in that medium. Requestors should be aware that the public records policy does not require county staff to do research, analyze data, or answer written questions. Also, please be aware the County follows the information and guidelines provided by the NC Department of Cultural Resources, including all applicable local government retention and disposition schedules.

The policies and procedures discussed herein are not meant to supplant or supplement the Public Records Law. Any inconsistencies between the policies discussed herein and the Public Records Law shall always be resolved in favor of the Public Records Law. Questions regarding the Public Records Law or these policies and procedures shall be referred to the Legal Department.

2. Definitions.

For the purposes of this Policy, the following definitions apply:

- a. Actual cost: is the sum of the direct, chargeable costs related to the copying and production, as determined by generally accepted accounting principles.
- b. Burdensome copying: is copying, compiling, and/or producing records in response to a request that requires extensive use of information technology resources or extensive clerical or supervisory assistance by personnel.
- c. Personnel costs: related to burdensome copying are determined at an hourly rate equal to the gross hourly wages of the employee(s) who worked on the applicable records

production multiplied by the number of hours worked by the employee(s) during the production.

- d. Standard size copy: is an 8.5 x 11, 8.5 x 14, or 11 x 17 inch copy made from an original page that is not longer than 11 inches in one dimension and not longer than 17 inches in the other dimension.

3. Request for Public Records.

- a. Requests for public records may be made by any person, corporation, or public entity.
- b. Persons requesting public records may not be required to state the purpose for which they are requesting the record.
- c. Requests for public records are also public records.
- d. Staff prefers all public record requests to be made in writing to help ensure the County accurately produces the requested document(s) in a timely and efficient manner.
- e. Persons requesting public records are asked to fill out the document that can be found online on Lee County's website. This document requires the requester to submit the following information:
 - a. The name, address, and phone number of the requesting party. Attorneys may request public records without disclosing the name of the client who is requesting the document.
 - b. A description of the documents requested, including if possible, the subject of the document, the author of the document, and the date of the document.
 - c. The county department or office from which the document is being requested.
- f. Documents that have not been collected or reviewed within 15 days of notice to the requestor shall be returned to the file or disposed.

4. Processing a Public Records Request.

- a. All public records request should be sent to the Clerk to the Board and to the Legal Department. Upon review of the request, the Clerk to the Board and/or the Legal Department will send the request to the office that has custody of the records.
- b. The custodian of the record will work with the Clerk to the Board to determine if the request and/or response requires further review by the Legal Department.

- c. If the request does not need further legal review, either the custodian of the record (for routine requests) or the Clerk to the Board, at his/her discretion will either:
 - i. Makes copies or scan copies of the requested document(s) and charge the requester for production costs as provided herein; or
 - ii. Make the records available to the requestor for purposes of allowing him/her to view the documents at the county offices. If the requestor views the documents, the records are not allowed to leave the building and the requestor will be supervised by a staff member at all times. If, after viewing the documents, the requestor requests copies of the documents, the County may charge the requestor for production costs as provided herein.
- d. In the event the record involves confidential or privileged information, the request may be denied or redacted pursuant to the current public records law.
- e. County staff strives to process public records requests within a reasonable time of receipt. The custodian of the record shall notify the requestor in writing if the request will not be processed within thirty days and may provide an estimated date by which the documents should reasonably be prepared for review or receipt.
- f. Requestors may not remove or take public records from county offices for purposes of making copies elsewhere or for any other reason. Requestor is also not allowed to photograph, videotape, or otherwise copy or disseminate records when viewing in person.

5. Charges for Responding to Public Records Requests

- a. The Public Records Law provides that persons may obtain public records free or at a minimal cost. Charges for producing documents pursuant to a public records request shall reflect the actual cost of reproducing the record.
- b. There shall be no charge for document requests of 25 pages or less for all requestors.
- c. For document requests in excess of 25 pages, there shall be a charge of the actual cost per page for each page. Please see Attachment A for charges per page. If the Requestor asks for the records to be mailed directly to them, the Requestor must pay the actual mailing costs incurred by the County.
- d. Personnel costs shall not be charged for document requests requiring less than thirty minutes clerical time to produce, assemble, or copy.

- e. Burdensome copying shall be subject to a special service charge according to N.C.G.S. 132-6.2(b). These personnel costs may be charged for charged for document requests requiring more than thirty minutes clerical time to produce, assemble or copy. When charged, personnel costs shall be determined by multiplying the base hourly wage of the employee by the hour or fraction required to produce and copy the record. Personnel costs may also be billed to the Requestor for the time staff spends overseeing inspection of records.
- f. Requestor will receive an invoice from Lee County Government and Requestor must pay with cash or a cashier's check prior to receiving the records.
- g. There shall also be a fee of \$1.00 (one dollar) per certification by the Clerk to the Board.
- h. Document requests shall use a backward-rolling sixty-day calendar in order to avoid piecemeal requests and encourage efficiency in the workplace. Accordingly, once a requestor receives his/her "free" twenty-five-page record, he/she will be charged ten cent per page for each page produced thereafter on behalf of the requestor within the next sixty days. This also applies to multiple record requests submitted at the same time; if more than one record requests is submitted at once, the requestor will only receive 25 "free" pages for the entire request. The same principal shall apply to labor costs.
- i. Where the Clerk to the Board, after discussion with the custodian of the record, believes the cost of producing the record will exceed five dollars, the Clerk shall contact the requestor for permission to produce the record at the estimated cost. Copies shall not be made until the custodian receives affirmation from the requestor that he/she is willing to pay the estimated cost of producing the records.
- j. Requests for waiver of fees may be made to the County Manager on a case by case basis.
- k. Copies of records shall not be released until the requestor pays the copying/production costs.

6. Confidential or Privileged Documents.

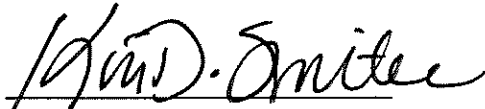
North Carolina law excludes some records held by the local government as confidential and privileged documents. Because civil and criminal sanctions may apply for the wrongful production of confidential or privileged information, employees are strongly encouraged to review the public records law statute and to contact the Legal Department to ensure they remain in compliance. Examples of confidential/privileged documents that cannot be produced under the Public Records Act include attorney-client documents, attorney work product, privileged

health information, health records, Department of Social Service client records, certain hospital records, federal tax identification numbers, personnel records, certain tax records, certain library user records, trade secrets, records of criminal investigations, sensitive public security information, photo/video records made pursuant to an autopsy, minutes of closed sessions, and certain documents related to economic incentives. This list is not all-inclusive. Questions regarding confidential and/or privileged documents should be submitted to the Legal Department prior to disclosure.

7. Questions Concerning Public Records.

Questions regarding the production of records under the Public Records Act should be forwarded to the Legal Department.

Adopted this the 25 day of July, 2023.



Kirk D. Smith

Chair

Lee County Commissioners

Attachment A

Paper Copies: 10 cents

Electronic Copies: If Lee County purchases a device for electronic distribution, full reimbursement for device.