

Policy & Procedures

Policy: Public Records Request Policy and Procedure
Adopted: July 20, 2020

Purpose:

Establish procedures for access to public records.

Key Definitions:

Public records – All documents, paper, 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. By statute, certain items are exempt from public access. Records will be retained in accordance with the Municipal Records Retention and Disposition Schedule issued by the North Carolina Department of Cultural Resources. Personal notes are not considered public record

Public records with short term value – May be destroyed or otherwise disposed of when their reference value ends. These include items such as fax cover sheets containing only transmittal, routing slips, reservations and confirmations, and preliminary or rough drafts once the final document is completed.

Custodian of the records – The official in charge of the office that holds the public record, typically the department head or his/her designee or the City Clerk.

Procedures:

- a. Requests for public records may be submitted via the City of Shelby's website by writing to the City Clerk at carol.williams@cityofshelby.com. The request should include the name, address, and telephone number of the requesting party. The request must be specific enough to enable the custodian to provide the information.
- b. The City Clerk will forward the request to the responsible custodian. The City Clerk will notify the City Manager of the request.
- c. The custodian of the records should respond to the request as promptly as possible, with the timeframe for response dependent upon the complexity of the request.
- d. The custodian(s) shall provide the record to the City Clerk. The custodian is responsible to ensure that non-public, exempt or confidential records are excluded from the request. If the custodian(s) has a concern whether the request complies with NCGS Chapter 132, he or she will advise the City Manager who will advise, consult with the City Attorney, or forward the record to the City Attorney for review and clarification. Also, any document(s) created by the City Attorney will be reviewed by him/her prior to release.
- e. The City Clerk is responsible for providing the written response directly to the requestor. In some situations, the City Manager or the City Attorney may provide the response, but the City Clerk must be provided with a copy for record-keeping. Potential responses include:

- i. Providing the entire record;
 - ii. Providing a partial record or outlining the reasons for only partially filling the request;
 - iii. Providing a cost estimate and payment request if a service charge will be assessed for an extensive request; or
 - iv. Denying the request.
- f. If copies are requested, copies must be provided to the requestor. Paper copies will be \$0.25 per page. If mailing is requested, the cost of postage will be charged. The City will require prepayment if the total fees are estimated to exceed \$100.00.
- g. If the requestor chooses to inspect the records in person rather than obtain copies, the City Clerk will notify the requester when the records are available for inspection and any applicable fees will be paid prior to the review. The viewing of public records may be done only during normal business hours.

Special Service Charge:

NCGS 132-6.2(b) authorizes public agencies to charge a “special service charge” for requests involving extensive use of information technology resources or extensive clerical and/or supervisory assistance. If a request will take more than four (4) hours, the City will charge a reasonable fee, \$33 per hour (in excess of the initial four hours) to search, locate, collect, sort, copy and prepare the records to be produced. A cost estimate will be provided to the requester and approval and payment will 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 completion of the request.

Records Exempt from Public Access:

- a. Personnel records (except for employee’s name, dates of employment, position, salary, date and amount of last salary change, date of most recent change in employment status, work location) (G.S. 160A-168)
- b. Criminal investigation records (Except details of criminal incidents, information about person charged or arrested, circumstances, contents of 911 calls, radio communications between law enforcement personnel) (G.S. 132-1.4)
- c. Attorney-client consultations (becomes public after 3 years unless trial preparation or attorney work product) (G.S. 160A-208.1, 132-1.1(a), 132-1.9, and Rule 26 NCRCP)
- d. Trade secrets or confidentialities of third parties (if designated as such when information was initially disclosed) (G.S. 132.1-2)
- e. Tax records containing information about taxpayer’s income or receipts (G.S. 160A-208.1)
- f. Minutes of Closed Session Meetings (until reason for Closed Session no longer valid) (G.S. 143-318.10(e))
- g. Water and sewer customer billing information (G.S. 132-1.1 (c) and G.S. 132.1.2 (2))
- h. Social security numbers and other identifying information (G.S. 132-1.10)

i. Economic development information (if public inspection would frustrate purpose for which record was created) (G.S. 132-6(d))

j. Personal records (not related to the transaction of public business)

* Note: This is a partial list of the exemptions that typically apply to municipalities. Other records may also be exempt from public disclosure.

** Note: This Policy is designed to provide guidance only, and in the event of conflict between this Policy and the law, the law prevails.