

## **Policy #52**

### **Public Records Request Policy**

#### **Policy Purpose**

The purpose of this policy is to provide a prompt and appropriate response to all public records requests.

#### **Coverage**

This policy, upon adoption by the Council, shall remain in effect until such time it is altered, modified, or rescinded by the Council.

#### **Public Records**

##### **1. Public Records Defined**

Pursuant to N.C.G.S. Chapter 132, the Town of Troutman makes available to the public all records in its custody and control that are defined as “public records” under N.C.G.S. §132-1.

North Carolina General Statute (NCGS) 132-1(a) defines public record(s) 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 Troutman are public unless they are exempt from disclosure under North Carolina 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:

- a. Confidential communications from the attorney to the client within the scope of the attorney-client relationship as defined in NCGS 132-1.1.

- b. Criminal investigation records and records of criminal intelligence information, as provided in NCGS 132-1.4 (active and closed investigations).
- c. 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.
- d. Records of minors per NCGS 132-1.4, 132-1.12 and 7B-2901.
- e. 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.
- f. "Tax information" pertaining to a taxpayer's income or gross receipts may not be disclosed, as provided in NCGS 132-1.1.
- g. 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.
- h. 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.)
- i. 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
- j. 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 Legal Department should be consulted if there is a request for such records.
- k. 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.
- l. 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).
- m. Closed session meeting minutes that are deemed protected under NCGS 143-318.10 (e).

### **3. 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.

### **How to Make a Public Records Request**

Any person may request public records by completing the Public Records Request Form (Attachment A) and submitting it to the Town Clerk.

### **Response to Public Records Request**

Depending upon the nature of the request, the Clerk may respond by:

1. Producing the record after the payment of applicable fees;
2. Acknowledging the Clerk's receipt of the request accompanied by a reasonable estimate of time necessary to prepare its response;
3. Requesting a deposit where it is estimated that the production of the record will exceed \$100 or in compliance with the Extensive Requests provision herein.
4. Requesting clarification as to which specific records are being requested; or
5. Denying the request accompanied by an explanation of the statutory basis for denial.

Upon completion of the Public Records Request Form, the Clerk will provide the requestor with an estimate of time necessary to compile the requested records. The Town commits to responding to each Public Records Request by making the records available for inspection or pick-up within a reasonable time following the request given the Town's hours of operations, staffing, scope and breadth of the request, form of retention, and necessity for consultant or contractor retention.

### **Requests for Inspection**

In the event a requester requests to inspect records, the Clerk will notify the requestor once the records are available for inspection. If the requestor fails to make an appointment with the Clerk to inspect the records within fourteen (14) calendar days of being notified the records are available for inspection: (1) the records will be returned to the originating department; and (2) the requestor must submit a new Public Records Request Form. To protect the confidentiality and integrity of the records stored on the Town's computer system, in lieu of an inspection of the original electronic record, the Town reserves the right to provide a copy of any electronically stored data. Such copy shall be either hard copy or electronic. If the requestor requests a hard copy, the requestor shall be responsible for payment of the applicable fees.

### **Fees**

The following fees shall be applied to the corresponding format of request:

1. Paper copies .....\$0.25 per page
2. Burned compact disc (CD).....\$5.00 per disc

- 3. Thumb drives or other such devices..... Actual cost of device
- 4. 90 minute audio tapes transcribed..... \$50.00 per page or actual cost of transcription if outside transcription service used.
- 5. Audio Tape copied..... \$5.00 per tape.
- 6. Computer generated reports.....\$0.10 per page

**Extensive Requests**

If a request is extensive requiring the extensive use of technology resources or extensive clerical or supervisory assistance by personnel of the Town involved, which is more than two (2) hours, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the Town for reproduction of the volume of information requested, then the Town 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 actual labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the Town or attributable to the Town. The Town labor shall be billable upon the actual employee’s pay rate in 15-minute increments, plus listed costs of digital and printed reproduced media. The labor charge and billing shall begin after the first tow (2) hours of labor to comply with the request. The extra service charge shall be determined on a case-by-case basis by the Town Clerk as set forth in N.C.G.S. 132-6.2(b). Prior to the production, the Town Clerk shall notify the requester of the possible extra service charge and provide an estimate of the cost. The requester shall determine if they want to revise their request or accept the costs. If the requester continues with the request, then the requester shall deposit one-half of the estimated cost with the Town with the remainder of the actual cost being due upon production of the records. The remaining fees, if any, shall be due prior to production of the documents. If anyone requesting public information from any public agency is charged a fee that the requester believes to be unfair or unreasonable, the requester may ask the State Chief Information Officer or his designee to mediate the dispute.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Teross W. Young, Jr., Mayor

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Town Clerk

