

FCO 2023-36

FLOYD COUNTY BOARD OF COMMISSIONERS

PUBLIC RECORDS REQUEST ORDINANCE

The Floyd County Commissioner's recognize the need for an Ordinance to govern the disclosure of public information. The Floyd County Commissioners hereby adopt the State of Indiana's fundamental philosophy of the American constitutional form of representative government, that government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information. This chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record. With that being said, the State of Indiana recognizes that certain information and documents shall not be disclosed or may be discretionary.

WHEREAS IC 5-14-3 defines terms and describes procedures for requesting public records.

WHEREAS public records disclosed under this ordinance may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person for these purposes.

WHEREAS certain records are exempt from disclosure.

WHEREAS the Floyd County Commissioners have developed a written **FLOYD COUNTY PUBLIC RECORDS REQUEST POLICY** and a **PUBLIC RECORDS REQUEST FORM** which is hereby adopted by passage of this Ordinance. The Floyd County Commissioners may, from time to time, modify the **FLOYD COUNTY PUBLIC RECORDS REQUEST POLICY** and the **PUBLIC RECORDS REQUEST FORM** by Resolution.

SUBSTANTIVE AND PROCEDURAL LAW

The Floyd County Commissioners hereby adopts the substantive and procedural law as defined in IC 5-14-3.

FEES

1. The fee for certification of documents is five dollars (\$5) per document.
2. The fee for copying documents may not exceed the greater of:
 - (1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or

FLOYD COUNTY PUBLIC RECORDS REQUEST POLICY

Purpose

The purpose of this Policy is to provide rules by which the Board of Commissioners of the County of Floyd and its departments implement and ensure compliance with the provisions of Indiana Code 5-14-3 (Access to Public Records) for the County's public records.

Interpretation and Construction

The provisions of this Policy shall be liberally interpreted and construed to promote full access to the County's public records in order to assure continuing public confidence in government: provided, that when making public records available the County shall prevent unreasonable invasions of privacy, shall protect public records from damage or disorganization, and shall prevent excessive interference with essential government functions.

Public Records Available

Public records shall be made available for public inspection and copying pursuant to IC 5-14-3.

Public Information Officer

- A. The Public Information Officer shall serve as the point of contact for members of the public who request disclosure of public records. The Public Information Officer shall be responsible for implementation of and compliance with IC 5-14-3.
- B. The Public Information Officer will be appointed by the Board of Commissioners.

Public Records Requests – How Made

- A. Public records may be inspected and/or copies may be obtained under the following procedures:
 1. A request for public records shall be directed to the Public Information Officer.
 2. A request for public records shall be made in writing and include the following information:
 - a) The requester's name, mailing address, phone number and email address (if one is available);
 - b) The date of the request;
 - c) A clear indication that the document is a "Public Records Request";
 - d) A clear description of the public records requested for inspection and/or copying;
 - e) If the request is for a list of individuals, a statement that the list will not be used for any commercial purposes or that the requester is authorized or directed by law to obtain the list of individuals for commercial purposes, with a specific reference to such law; and
 - f) Whether the request is for printed or digital copies of the public record.
 3. If a department maintains indexed records specifically for public inspection and copying, inspection and copying in response to an oral request is permitted. However, the Public Information Officer shall require a written request if the request is for or the response may include any of the following:
 - a) A list of individuals;
 - b) Categorical requests not identifying a specific public record;
 - c) Subjects of current, threatened or potential litigation;
 - d) Reproduction of oversized documents such as maps, surveys, large format photographs or color reproduction; or
 - e) Public records or information exempt from disclosure.
- B. The County shall develop and maintain forms to facilitate public record requests.

Inspection of Public Records - Where and When

Public records shall be inspected at the offices of the department having custody or control of the records during regular business hours, excluding legal holidays: provided, that there is no obligation to allow inspection immediately upon a demand. The Public Information Officer may request that the person seeking to inspect public records schedule an appointment for inspection.

Response to Public Records Requests

- A. The Public Information Officer shall, to the extent practicable, assist requesters in identifying the public records sought.
- B. There is no obligation to allow inspection or provide a copy of a public record on demand.
- C. The Public Information Officer shall respond in writing to a request for public information made in person within 24 business hours or to a request for public information received by mail, fax, or email within seven calendar days. The Public Information Officer shall make one or more of the following responses:
 - 1. The request for inspection of public records is approved and whether an appointment for inspection needs to be scheduled by the requester;
 - 2. The request has been received by the Public Information Officer, that additional time is needed to respond to the request, and stating a reasonable estimate of the time required to respond;
 - 3. The request has been received by the Public Information Officer and the records shall be provided on a partial or installment basis as the records are identified, located, assembled and/or made ready for inspection or copying; or
 - 4. The request is denied, in whole or in part, whether by withholding a requested record or redacting a requested record, stating the specific exemption(s) prohibiting disclosure and a brief explanation of how the exemption applies to each withheld and redacted record.
- D. The Public Information Officer shall immediately notify the requester if, after responding to a request for public records and approving the request, the Public Information Officer identifies requested public records or information that are exempt from disclosure.
- E. Additional time to respond to a request may be based upon the County's need to:
 - 1. Clarify the intent of the request;
 - 2. Identify, locate, assemble and/or make the records ready for inspection or disclosure;
 - 3. Notify third persons or agencies affected by the request; or
 - 4. Determine whether any of the records or information requested is exempt from disclosure and whether a denial should be made as to all or part of the request.
- F. If a requester fails to clarify the request after receiving a response from the Public Information Officers seeking clarification, the Public Information Officer need not respond further to the request.
- G. When a request for public records is received that concerns a subject known to involve litigation that is pending, threatened or anticipated, the Public Information Officer shall promptly notify the County Attorney of the request. Each page of the records provided to the requester shall be sequentially numbered or otherwise uniquely identified. Copies of the request, all correspondence between the Public Information Officer and the requester, and copies of the public records provided to the requester shall be delivered to the County Attorney. The requester shall not be charged for copies delivered to the County Attorney.

Copying Fees

- A. No fee will be charged for the inspection of a public record; for locating public records in response to a request and making the records available for inspection or copying; or for searching for public records, redacting portions of a record which are exempt from disclosure, or preparing an index of exempt documents.
- B. Floyd County Ordinance FCO 2023-36 sets the basic fee for copying of documents at \$.10 per page. This ordinance does not supersede any other fee set by State Statute or is ordered by a court of competent jurisdiction for services rendered by the County.
- C. The copying fee for any request for which the response will be oversized documents, color photographs or reproductions, tape recordings and computer disks shall be the actual expense for copying, including the cost of materials.

Copies of Policy Available to Public

Copies of this Policy and public records request forms shall be available to and provided to the public, without cost, at the Floyd County Commissioner's office.



**Request for Records Pursuant to Indiana Access To Public Records Act
(I.C. 5-14-3-1, et sec as amended)**

Date of Request: _____ Time of Request: _____

Name of person requesting information: _____

Address: _____

Phone: _____ E-mail Address: _____

Organization _____

Please identify as specifically as possible the information, record, or document requested (attach additional sheet if necessary):

Please indicate whether you wish to inspect the record or wish to obtain a copy:

Inspect

Copy

I understand that the Public Records Act requires an initial response to my request, but not the actual production of records, within a statutorily specified time period. I understand that if I request copies of public records, those copies will be provided to me within a reasonable period of time after the initial response to my request. I further understand that if the request is denied, Floyd County will respond in writing and state the statutory exception authorizing the withholding of all or part of the public record and the name and title or position of the person responsible for the denial. I am requesting that Floyd County's response be mailed or e-mailed to me at the following address:

Photocopy Charge: Per I.C. 5-14-3-8, costs associated with copies are \$.10 cents per page that are not color copies and \$.25 cents per page for color copies. The fee for certification of documents may not exceed \$5.00 per document. Other charges may apply to cover the costs of reproducing materials in other mediums. Also, you will be charged for postage in the mailing of the requested documents to you. To avoid postage charges, you may pick up documents in person or send a self-addressed, stamped envelope. All charges must be paid to Floyd County before the requested documents are sent or given to you.

Signature of requestor:

Office Use Only

Request received by (check one):

Mail

Fax

E-mail

In Person

Received by: _____ at _____ .m. on _____, 20__.

Name of Department or Office: _____

Sent to County Attorney for response on: _____ By: _____

Response sent to requestor on: _____

Name of person who sent response to requestor: _____

Amount of charges: _____

Information Received by

Date

Floyd County Representative

Date

- (2) the actual cost to the agency of copying the document.
3. The fees for compliance with a public records request are subject to the nature of the request and shall be charged pursuant to current state statute on the date of the request.

Nothing herein shall compel any office to charge a fee for copies if the fee imposed by this section is contrary to state law or is covered by another section. In the event, the fees in this section are contrary to or are covered by any fees and charges established by state statute or by another ordinance of Floyd County, the provisions of the state statute or an ordinance previously adopted by Floyd County, if any, shall apply.

MISCELLANEOUS PROVISIONS

SECTION 1. Should any term or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such determination shall not affect the remainder of this Ordinance which shall remain in full force and effect.

SECTION 2. In the interpretation and application of this Ordinance, the masculine form shall mean and apply to the feminine, and the singular form shall mean and apply to the plural. The title hereof and those of all Articles of this Ordinance shall be disregarded.

SECTION 3. Any provision of any ordinance, rule, or regulation heretofore adopted by the Board of Commissioners of the County of Floyd, which is inconsistent or in conflict with this Ordinance is hereby repealed.

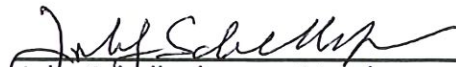
SECTION 4. This Ordinance shall be in full force and effect on an after its passage and publication as required by law.

SO ORDAINED this 17 day of October 2023.

**BOARD OF COMMISSIONERS OF
THE COUNTY OF FLOYD**



Al Knable, President



John Schellenberger, Member



Jason Sharp, Member

ATTEST:



Diana Topping, Auditor