Town of Carrboro

Meeting Agenda

Board of Aldermen

Town Hall
301 W. Main St.
Carrboro, NC 27510

Tuesday, January 10, 2017 | **7:30 PM** | **Board Chambers - Room 110**

A. RESOLUTIONS, PROCLAMATIONS, AND ACKNOWLEDGEMENTS

1. 16-368 Charges Issued to Recently Appointed Advisory Board Volunteers

B. ANNOUNCEMENT OF UPCOMING MEETINGS

C. REQUESTS FROM VISITORS AND SPEAKERS FROM THE FLOOR

D. CONSENT AGENDA

1. 16-369 Approval of Previous Meeting Minutes of December 6, 2016 and December 13, 2016

2. **16-365** Update of our Chapter 10 Animal Control Ordinance

PURPOSE: To accept the changes to Chapter 10 Animal Control as related to the Unified Animal Ordinance.

Attachments: Attachment A Updated Chapter 10.pdf

3. **16-371** Appointment to the Animal Control Board of Appeals

PURPOSE: The purpose of this item is to make an appointment to the vacant alternate seat on the Animal Control Board of Appeals.

4. **16-370** Request for Approval to Include HAWK Signal and Bike Share in the Orange County Bus and Rail Investment Plan Project List

PURPOSE: The purpose of this agenda item is to request approval from the Board of Aldermen to include a High-Intensity Activated Crosswalk (HAWK) signal on NC 54 and a bike share program in the list of Town projects for the OCBRIP.

Attachments: Attachment A - Resolution

E. OTHER MATTERS

1. 16-366 Update on Implementation of Police Department Body Worn Cameras (BWC)

PURPOSE: To provide the Board of Alderman an update on Body Cameras including cost, technology and policy due to State Law N.C.G.S.132-1.4A.

Attachments: Attachment A Chapter_132.pdf
Clean BWC Draft 1-5-17.pdf

F. MATTERS BY BOARD MEMBERS

G. MATTERS BY TOWN MANAGER

H. MATTERS BY TOWN ATTORNEY

I. CLOSED SESSION - NCGS 143-318.11 (4) (3)

Town of Carrboro

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301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number: 16-368

Agenda Date: 1/10/2017

File Type: Agendas

In Control: Board of Aldermen

Version: 1

Charges Issued to Recently Appointed Advisory Board Volunteers

The following charges will be issued:

Ryan Byars: Recreation and Parks Commission

Rachel Gaylord-Miles, Planning Board

Ben Skelton, Environmental Advisory Board

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Agenda Item Abstract

File Number: 16-365

Agenda Date: 1/10/2017

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Update of our Chapter 10 Animal Control Ordinance

PURPOSE: To accept the changes to Chapter 10 Animal Control as related to the Unified Animal Ordinance.

DEPARTMENT: Police Department

CONTACT INFORMATION: Chief Walter Horton 919-918-7397

1. **INFORMATION: Update of Current Chapter 10 Animal Control Ordinance**

   On November 10, 2015, with the adoption of the Unified Animal Ordinance (UAO), some sections in Chapter 10 were repealed. This revised version reflects items removed which are covered under the UAO and renumbering of remaining items specific to the Town of Carrboro. **See Attachment A**

FISCAL & STAFF IMPACT:
None

RECOMMENDATION: Staff recommends Board accept Changes to Chapter 10.

CHAPTER 10

ANIMAL CONTROL

(Amend. 11/15/2015)

ARTICLE I

DEFINITIONS

Section 10-1 Definitions

Unless otherwise specifically provided or unless otherwise clearly required by the context, the following words and phrases shall have the meaning indicated when used in this chapter:

(1) Livestock: Animals raised for the production of meat, milk, eggs, fiber or used for draft or equestrian purposes, including but not limited to horses, mules, cows, pigs, goats, llamas, ostriches, sheep, fowl (such as chickens, ducks, turkeys, etc.), rabbits, and all other animals that typically are kept primarily for productive or useful purposes rather than as pets.

Comment [RH1]: Formerly 10-1(15)

(2) Tether: To restrain a dog outdoors by means of a rope, chain, wire, or other line, one end of which is fastened to the dog and the other end of which is connected to a stationary object or to a cable trolley system. (This definition excludes walking a dog with a handheld leash). (Created 9/13/11)

Comment [RH2]: Fortmerl 10-1(21.1)

ARTICLE II

TAXATION AND TAGS

Section 10-2 Privilege Tax on Dogs and Cats.

Comment [RH3]: Formerly 10-2

(a) The owner of every dog or cat over four (4) months of age that is kept within the town shall annually pay to the town (through Orange County Animal Services) a tax on the privilege of keeping such animal within the town.

(b) The amount of the tax shall be established annually as part of the annual budget ordinance adoption process.

(c) In order to further the goal of controlling animal population, the tax on unspayed or un-neutered dogs and cats shall be higher than that of spayed or neutered animals.

ARTICLE III

LIVESTOCK AND WILD ANIMALS

Section 10-3 Permits:

Comment [RH4]: Former 10-5 (b) through (g)

(a) No person may keep within the town any permissible livestock over four (4) months of age except in accordance with a permit issued pursuant to subsection (c).

(b) Subject to subsections (d) and (e), no permit may be issued for any livestock unless the applicant for the permit demonstrates that the livestock will be kept on a tract of land that satisfies each of the following conditions:

(1) The tract shall consist of at least 40,000 square feet of land under single ownership or control.

(2) There shall be at least 20,000 square feet of land per animal.

(3) No fence, coral, or other similar enclosure shall be erected within 15 feet of any property line.

(4) No barn, stable or similar structure used for the keeping of livestock other than rabbits or fowl shall be erected or maintained within 50 feet of any property line or street-right-of-way.

(5) No barn, cage, pen, or similar structure used for the keeping of rabbits or fowl shall be erected or maintained within 15 feet of any property line or street right-of-way line.

(c) The provisions of subsection (c)(3), (4) and (5) shall not preclude the establishment, with the consent of the affected adjoining property owners, of a commonly owned or used fence, barn or other enclosure, all of which is located along or near a common property line.

(d) The provisions set forth above in (c)(1) and (c)(2) shall not apply to rabbits and fowl. However, no permit may be issued for rabbits or fowl unless the provisions of (c)(3) and (c)(4) are complied with and unless the permit applicant demonstrates compliance with the following conditions:

(1) The tract where such livestock are kept shall consist of at least 10,000 square feet.

(2) Such livestock may be kept only (i) on a lot used for residential purposes and only for the consumption of persons who reside at that lot, or (ii) on a common open space area within a residential development with the written permission of the owner of such common space land accompanied by a copy of association minutes reflecting the approval decision, and only for the consumption of persons who reside within that residential development. Such livestock may not be kept for commercial purposes. (Amend. 10/6/09)

(e) The provisions of subsection (b)(1) through (5) shall not apply to “fainting goats.” However, no permit may be issued for a person to keep fainting goats unless the permit applicant demonstrates compliance with the following conditions: (Amend. 8/25/09)

(1) The tract where such livestock are kept shall consist of at least 25,000 square feet;

(2) Such livestock may be kept only on a lot used for residential purposes and only for the consumption of persons who reside at that lot; such livestock may not be kept for commercial purposes;

(3) No more than two (2) fainting goats may be kept on a single tract or lot;

(4) Any person wishing to keep fainting goats on their property must seek and obtain a permit to do so;

(5) The Administrator shall issue the permit required by this section unless he finds:

(i) The applicant has failed to comply with subsection (e);

(ii) The animal(s) for which the permit is requested poses a substantial danger of harm to any person, animal or property;

(iii) The animal(s) for which the permit is requested is likely to or does interfere with the use and enjoyment of neighboring properties because of offensive noise or odor or for other reasons;

(iv) The animal(s) for which the license is requested otherwise constitutes a threat to the public health or safety.

(d) After compliance with subsection (g), the administrator shall issue the permit required by this section unless he finds that:

(1) The applicant has failed to comply with subsection (b);

(2) The animal for which the permit is requested poses a substantial danger of harm to any person, animal, or property.

(3) The animal for which the permit is requested is likely to or does interfere with the use and enjoyment of neighboring properties because of offensive noise or odor or for other reasons.

(4) The animal for which the license is requested otherwise constitutes a threat to the public health or safety.

(e) Before issuing a permit under this section, the Administrator shall notify the applicant and the applicant's immediate neighbors by any convenient means of a date and time when they may be heard on the question of whether a permit should be issued. After the hearing, the Administrator shall set forth in writing his reasons for the issuance or denial of the permit and shall furnish a copy thereof to any person requesting the same. Any person aggrieved by the issuance or denial of a permit under this section appeal such decision to the Animal Control Board of Appeals pursuant to Section 10-38 (except that the burden of demonstrating that the administrator erred shall be on the appellant). (Amend. 8/25/09)

Section 10-4 Feeding of Deer Prohibited:

Comment [RH5]: Formerly 10-7.1

(a) Subject to subsection (f), no person within the corporate limits of the town may place or allow any device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of feeding or attracting deer.

(b) There is a rebuttable presumption that the placement of any fruit, grain, mineral, salt, plant, vegetable, or other material edible by deer at a height of less than five (5) feet off the ground is for the purpose of feeding deer.

(c) There is a rebuttable presumption that the placement of any fruit, grain, mineral, salt, plant, vegetable, or other material edible by deer in a drop feeder, automatic feeder, or similar device regardless of the height of such device is for the purpose of feeding deer.

(d) Each property owner shall remove any materials placed on the owner's property in violation of this section within 48 hours of being notified by the town that such violation exists. Failure to do so shall constitute a separate violation of this section.

(e) Each property owner shall remove any device placed on the owner's property to which deer are attracted or from which deer actually feed. Alternatively, a property owner may modify such device or make other changes to the property that prevent deer from having access to or feeding from the device. Failure to remove the device or make necessary modifications with 48 hour of notice from the town shall constitute a separate violation of this section.

(f) This section does not apply to:

(1) Naturally growing materials, including but not limited to fruits, grains, seeds, vegetables, or other crops or vegetation.

(2) Stored crops, provided that such crop materials are not intentionally made available to deer.

(3) Feeders used to provide food to domestic animals or livestock.

Section 10-5 Dogs Prohibited Within Farmers Market

Comment [RH6]: Formerly 10-17

No owner or keeper or other person in possession of any dog may allow such animal to go upon the premises operated by or for the town as a farmers market during any period when the market is in operation.

Section 10-5.1 Dog Owners Required to Remove Feces Deposited by Dogs (Amend. 10/7/08)

Comment [RH7]: Formerly 10-17.1

(a) Subject to subsection (b), it shall be unlawful for the owner of any dog, or any person walking or otherwise in charge of such dog, to fail or refuse to remove feces deposited by such dog on any street, sidewalk, park, or other publicly owned area, or on any private property.

(b) The provisions of subsection (a) of this section shall not apply to the premises occupied by the owner or keeper of the dog, but shall apply to any common areas in any two-family or multi-family residential development.

Section 10-5.2 Tethering of Dogs Generally Prohibited

Comment [RH8]: Formerly 10-17.2

(a) The Board finds that:

(1) Tethered dogs can and do become highly territorial and aggressive, presenting a significant risk of injury to the public through dog bites and attacks; and

(2) Tethered dogs can and do negatively impact community life through nuisance barking; and

(3) Tethered dogs are at risk of becoming tangled and prevented from reaching food, water, and shelter; and

(4) Tethered dogs are at risk of sustaining injury or death from accidental strangulation and are less able to defend themselves from other animals.

(b) Subject to subsections (c) and (d) of this section, no person may tether a dog, and no owner or keeper of a dog may or cause or permit such dog to be tethered.

(c) Provided that the tethering does not extend for more than seven (7) consecutive days and that the tethering device meets the standards set forth in subsection (d), tethering of a dog shall be permissible under the following circumstances:

(1) Lawful dog activities such as hunting, hunting training, and hunting sporting events, field and obedience training, field or water training, law enforcement training, veterinary treatment and/or the pursuit of working or competing in these legal endeavors.

(2) Any activity where the tethered dog is in visual range of its owner or keeper and the owner or keeper is located outside with the dog.

(3) After taking possession of a dog that appears to be a stray dog, and after so notifying the Animal Control Officer, the dog may be tethered while the person taking possession of the dog searches for its owner.

(d) When tethering is permitted under the circumstances specified in subsection (c), the tethering may take place only in accordance with the following requirements:

(1) Tethers must be made of rope, twine, cord, or similar material with a swivel on one end or must be made of a chain that is at least ten (10) feet in length with swivels on both ends and which does not exceed ten (10) percent of the dog's body weight.

(2) The tether may be fastened to the dog only by attachment to a buckle type collar or body harness.

The dog must be tethered in such a manner that it has access to food, water, and shelter.

ARTICLE V

APPEALS

Section 10-6 Appeals:

Comment [RH9]: Former section 10-38, with 11/15 amendment to subparagraph (a)

(a) The owner of any animal who (i) is required to remove his animal from the Town based upon a finding that the animal is or creates a public nuisance,, or (ii) who has been assessed and has paid a civil penalty, or (iii) whose permit is denied or revoked pursuant to applicable regulations, or (iv) whose animal is declared to be "dangerous" or "vicious" pursuant to applicable regulations, may appeal to the Animal Control Board. An appeal shall be taken within ten (10) days after receiving the written notice of the determination appealed from except that appeals from a determination that a dog is a vicious dog or a dangerous dog shall be taken within 3 days of notification. An appeal is taken by filing a written notice of appeal with the administrator and stays all enforcement efforts of the administrator until the appeal is disposed of. An appeal from an order to pay civil penalties shall first be reviewed by the Chief of Police, or his designee, who shall have the authority to affirm, revise or modify the order. If the owner is unsatisfied with the first civil penalty review, the owner may then appeal to the Animal Control Board of Appeals within ten (10) days of the Chief's, or his or her designee's, decision.

(b) The Animal Control Board of Appeals shall consist of three (3) members and one (1) alternate appointed by the board of aldermen. The board of aldermen shall designate one member as chairman. The members shall serve three-year staggered terms. The alternate shall also serve a three-year term and shall be appointed initially for a term of three (3) years.

(c) The board shall meet within twenty (20) days after notice of appeal is filed. A quorum of the board shall consist of three (3) members, and all decisions shall be made by majority vote. The board may uphold, reverse, or modify the determination appealed from, and the administrator shall thereafter continue, modify or cease his enforcement efforts in accordance with the board's decision.

(d) The burden of justifying the administrator's determination shall be on the administrator. Strict rules of evidence need not be followed, but the board may consider only what a witness knows of his own knowledge, and no decision may be based upon hearsay alone.

(e) The board shall reach a decision as expeditiously as possible and shall provide the appellant and the administrator with a written decision, stating the reasons therefore.

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Agenda Item Abstract

File Number: 16-371

Agenda Date: 1/10/2017

File Type: Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Appointment to the Animal Control Board of Appeals

PURPOSE: The purpose of this item is to make an appointment to the vacant alternate seat on the Animal Control Board of Appeals.

DEPARTMENT: Town Clerk

CONTACT INFORMATION: Cathy Dorando, 919-918-7309

INFORMATION: The Animal Control Board of Appeals has a vacant alternate seat. The Town Clerk has received an application of interest for the Animal Control Board of Appeals. The applicant has also expressed interest in other advisory boards. The Town Attorney has indicated that the applicant can serve on another advisory board if she is appointed to the Animal Control Board of Appeals and the applicant has indicated that she understands the role of the alternate position.

FISCAL & STAFF IMPACT: The Animal Control Board of Appeals has a membership of three and a quorum requirement of three. There have been multiple instances of meetings that have been difficult or impossible to call due to members' availability. Appointment to the alternate seat will help staff manage meetings more efficiently and effectively.

RECOMMENDATION: Staff recommends that the Board adopt the attached resolution.

Agenda Item Abstract

File Number: 16-370

Agenda Date: 1/10/2017 **File Type:** Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Request for Approval to Include HAWK Signal and Bike Share in the Orange County Bus and Rail Investment Plan Project List

PURPOSE: The purpose of this agenda item is to request approval from the Board of Aldermen to include a High-Intensity Activated Crosswalk (HAWK) signal on NC 54 and a bike share program in the list of Town projects for the OCBRIP**.**
DEPARTMENT: Planning

CONTACT INFORMATION: Bergen Watterson, 919-918-7329, bwatterson@townofcarrboro.org <mailto:bwatterson@townofcarrboro.org>; Tina Moon, 919-918-7325, cmoon@townofcarrboro.org <mailto:cmoon@townofcarrboro.org>

INFORMATION: GoTriangle, with the help of technical staff from local jurisdictions, is updating the Orange and Durham County Bus and Rail Investment Plans (BRIPs), which were adopted in 2012 and 2011, respectively. The Orange County BRIP contains a section on New Bus Capital Investments, which includes funding for: 1) Park and ride lots, 2) bus shelters in both rural and urban areas of the County, 3) real-time passenger information signs and technology, and 4) bus stop access improvements such as sidewalks. While the OCBRIP <http://www.orangecountync.gov/departments/planning_and_inspections/Adopted_BRIP_Plan_Adopt_OC_BRIP.pdf> does not contain specific projects in the adopted plan, the staff working group developed a list of priorities to be funded in the first five years. To date, none of the Orange County bus capital funds have been spent. Along with the update of the full BRIP, an interjurisdictional sub-committee is working on updating the bus capital project list.

On September 17, 2013 the Board of Aldermen approved a preliminary list of projects that enhance access to bus stops to be prioritized for funding through the OCBRIP. These projects included a sidewalk on South Greensboro Street, sidewalks and bike lanes on Estes Drive, a sidewalk on West Main between Fidelity and Poplar, and a sidewalk on Old Fayetteville Road behind Carrboro Plaza. On April 22, 2014 the Board of Aldermen directed staff to add the Morgan Creek Greenway and a corridor study of Estes Drive to the list of bus capital projects.

As part of the update process, Town staff has amended the cost estimates and timing for the Carrboro projects

on the list. Some of these projects have existing federal funding and will put the OCBRIP funding toward local match or to otherwise supplement the existing funds (Morgan Creek, Estes Drive, and S. Greensboro Sidewalk). Others are standalone projects that will require 100% funding through OCBRIP (W. Main St. Sidewalk, Old Fayetteville Sidewalk, and Estes Drive Corridor Study).

After learning that a bike share program would not be eligible for CMAQ funding, staff has identified the Carrboro-Chapel Hill-UNC-Hillsborough bike share as a possible addition to the list of projects with hopes of funding a two-year pilot program ($180,000 per year). Staff has also identified a new project that the Board of Aldermen has not yet reviewed - a High-Intensity Activated Crosswalk (HAWK) signal on NC 54 near either Abbey Lane or Westbrook Drive. This pedestrian activated traffic signal would vastly improve the safety for pedestrians crossing four lanes of traffic to access the high-volume bus stops on both sides. The estimated cost for one HAWK signal is ~$150,000.

The updated list of projects and their associated cost estimates will allow the GoTriangle finance team to gain a better understanding of the financial needs of all elements of the OCBRIP. It is unclear at this point when we will know how much funding is available for the Bus Capital projects and when we can expect to start work on the projects. The updated BRIP is expected to be adopted by the County Commissioners, MPO Board, and GoTriangle Board in April 2017, after a thorough public involvement process in February and March. A presentation from GoTriangle staff on the BRIP update is tentatively scheduled for the February 7th Board of Aldermen meeting.

FISCAL & STAFF IMPACT: There is no fiscal impact associated with approving the inclusion of the HAWK signal and the bike share in the updated BRIP.

RECOMMENDATION: Town staff recommends that the Board of Aldermen consider authorizing the inclusion of the HAWK signal and the bike share in the updated OCBRIP.

Attachment A

A RESOLUTION TO APPROVE INCLUSION OF TWO NEW PROJECTS IN THE ORANGE COUNTY BUS AND RAIL INVESTMENT PLAN PROJECT LIST

WHEREAS, the 2012 Orange County Bus and Rail Investment Plan allocates funding to bus capital projects, and

WHEREAS, GoTriangle and a staff working group are currently updating the Bus and Rail Investment Plan, including the list of bus capital projects, and

WHEREAS, the Chapel Hill Transit bus stops on NC 54 see several hundred daily boardings and alightings and bus riders must cross four lanes of high-volume traffic to access these stops, and

WHEREAS, HAWK signals have been shown to generate 95%-97% driver yield rates, and

WHEREAS, Carrboro residents and elected officials have expressed interest in a bike share program for a number of years,

NOW, THEREFORE, BE IT RESOLVED by the Carrboro Board of Aldermen that the Board endorses the following additions to the list of OCBRIP bus capital projects:

1. HAWK signal on NC 54 at either Abbey Lane or Westbrook Drive
2. Bike share program in Carrboro, Chapel Hill, Hillsborough and UNC

BE IT FURTHER RESOLVED that staff are directed to communicate these changes, and coordinate the details of them, with the OCBRIP staff working group

This the 10th day of January in 2017.

Town of Carrboro

Town Hall
301 W. Main St.
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Agenda Item Abstract

File Number: 16-366

Agenda Date: 1/10/2017 **File Type:** Agendas

In Control: Board of Aldermen

Version: 1

TITLE:
Update on Implementation of Police Department Body Worn Cameras (BWC)

PURPOSE: To provide the Board of Alderman an update on Body Cameras including cost, technology and policy due to State Law N.C.G.S.132-1.4A.

DEPARTMENT: Police

CONTACT INFORMATION: Chief Walter Horton 919-918-7397

INFORMATION: On the June 23, 2015 Board of Alderman meeting, you were presented with the final draft of the Body Worn Camera (BWC) policy to review and approve. Due to concerns with what the Legislature could enact concerning BWC devices, the Board decided to delay approval of the policy and moving forward with the purchase of cameras until these concerns could be addressed. Since that meeting, there have been changes in technology and cost of the BWC and a new law concerning BWC Mobile Video Recorders (MVR) became effective October 1, 2016.

Changes in Technology

In the initial planning and budgeting phase of the BWC program, the police department decided to go with the Vista BWC manufactured by WatchGuard. The approved budgeted amount for 42 BWCs and storage was $90,000, of which $36,000 was earmarked for the BWC purchase. Since then, an updated version of the BWC has been released. This new version adds several useful features the previous model lacked. Such features are GPS, Synchronization with in-car and other BWC devices, and Wi-Fi download from the patrol car.

With this new version, there was a price increase. The price increase is due to new features and other hardware installed in the car to allow synchronization between the car system and BWC. Since there was a price increase for the new model, the number of BWC devices planned to be deployed was decreased from 42 to 32. This still outfits all patrol officers, community service officers and School Resource Officers and allows for three spare units. The price for the new version increased the price by $30,000, bringing the total cost to implement just the BWCs to $66,000. The police department plans to request the difference in the upcoming budget year and is also exploring grant opportunities.

Policy

Agenda Date: 1/10/2017 **File Type:**Agendas

In Control: Board of Aldermen

Version: 1

On October 1, 2016, a new section was added to the existing Public Records law that governs how law enforcement agencies handle disclosure and release of recordings. This new statute makes a clear distinction between release and disclosure of recordings and under what circumstances a law enforcement agency may do so. See Attachment A for a copy of the new law. To address this new law, our current draft policy on BWC was edited to conform with the new statute. See Attachment B for BWC Policy.

FISCAL & STAFF IMPACT: There is no fiscal or staff impact at this time.

RECOMMENDATION: Staff recommends Board accepts update and BWC policy for implementation.

Chapter 132.

Public Records.

§ 132-1. "Public records" defined.

(a) "Public record" or "public records" shall mean 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 county, unit, special district or other political subdivision of government.

(b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information. (1935, c. 265, s. 1; 1975, c. 787, s. 1; 1995, c. 388, s. 1.)

§ 132-1.1. Confidential communications by legal counsel to public board or agency; State tax information; public enterprise billing information; Address Confidentiality Program information.

(a) Confidential Communications. – Public records, as defined in G.S. 132-1, shall not include written communications (and copies thereof) to any public board, council, commission or other governmental body of the State or of any county, municipality or other political subdivision or unit of government, made within the scope of the attorney-client relationship by any attorney-at-law serving any such governmental body, concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of proceeding to which the governmental body is a party or by which it is or may be directly affected. Such written communication and copies thereof shall not be open to public inspection, examination or copying unless specifically made public by the governmental body receiving such written communications; provided, however, that such written communications and copies thereof shall become public records as defined in G.S. 132-1 three years from the date such communication was received by such public board, council, commission or other governmental body.

(b) State and Local Tax Information. – Tax information may not be disclosed except as provided in G.S. 105-259. As used in this subsection, "tax information" has the same meaning as in G.S. 105-259. Local tax records that contain information about a taxpayer's income or receipts may not be disclosed except as provided in G.S. 153A-148.1 and G.S. 160A-208.1.

(c) Public Enterprise Billing Information. – Billing information compiled and maintained by a city or county or other public entity providing utility services in connection with the ownership or operation of a public enterprise, excluding airports, is not a public record as defined in G.S. 132-1. Nothing contained herein is intended to limit public disclosure by a city or county of billing information:

(1) That the city or county determines will be useful or necessary to assist bond counsel, bond underwriters, underwriters' counsel, rating agencies or investors or potential investors in making informed decisions regarding bonds or other obligations incurred or to be incurred with respect to the public enterprise;
(2) That is necessary to assist the city, county, State, or public enterprise to maintain the integrity and quality of services it provides; or
(3) That is necessary to assist law enforcement, public safety, fire protection, rescue, emergency management, or judicial officers in the performance of their duties.

As used herein, "billing information" means any record or information, in whatever form, compiled or maintained with respect to individual customers by any owner or operator of a public enterprise, as defined in G.S. 160A-311, excluding subdivision (9), and G.S. 153A-274, excluding subdivision (4), or other public entity providing utility services, excluding airports, relating to services it provides or will provide to the customer.

(d) Address Confidentiality Program Information. – The actual address and telephone number of a program participant in the Address Confidentiality Program established under Chapter 15C of the General Statutes is not a public record within the meaning of Chapter 132. The actual address and telephone number of a program participant may not be disclosed except as provided in Chapter 15C of the General Statutes.

(e) Controlled Substances Reporting System Information. – Information compiled or maintained in the Controlled Substances Reporting System established under Article 5E of Chapter 90 of the General Statutes is not a public record as defined in G.S. 132-1 and may be released only as provided under Article 5E of Chapter 90 of the General Statutes.

(f) Personally Identifiable Admissions Information. – Records maintained by The University of North Carolina or any constituent institution, or by the Community Colleges System Office or any community college, which contain personally identifiable information from or about an applicant for admission to one or more constituent institutions or to one or more community colleges shall be confidential and shall not be subject to public disclosure pursuant to G.S. 132-6(a). Notwithstanding the preceding sentence, any letter of recommendation or record containing a communication from an elected official to The University of North Carolina, any of its constituent institutions, or to a community college, concerning an applicant for admission who has not enrolled as a student shall be considered a public record subject to disclosure pursuant to G.S. 132-6(a). Nothing in this subsection is intended to limit the disclosure of public records that do not contain personally identifiable information, including aggregated data, guidelines, instructions, summaries, or reports that do not contain personally identifiable information or from which it is feasible to redact any personally identifiable information that the record contains. As used in this subsection, the term "community college" is as defined in G.S. 115D-2(2), the term "constituent institution" is as defined in G.S. 116-2(4), and the term "Community Colleges System Office" is as defined in G.S. 115D-3.

(g) Public Agency Proprietary Computer Code. – Proprietary computer code written by and for use by an agency of North Carolina government or its subdivisions is not a public record as defined in G.S. 132-1.

(h) Employment Security Information. – Confidential information obtained, compiled, or maintained by the Division of Employment Security may not be disclosed except as provided in G.S. 96-4. As used in this subsection, the term "confidential information" has the same meaning as in G.S. 96-4(x). (1975, c. 662; 1993, c. 485, s. 38; 1995 (Reg. Sess., 1996), c. 646, s. 21;

2001-473, s. 1; 2002-171, s. 7; 2003-287, s. 1; 2005-276, s. 10.36(b); 2007-372, s. 2; 2013-96, s. 1; 2014-117, s. 2.)

§ 132-1.2. Confidential information.

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

(1) Meets all of the following conditions:
   a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
   b. Is the property of a private "person" as defined in G.S. 66-152(2).
   c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.
   d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

(2) Reveals an account number for electronic payment as defined in G.S. 147-86.20 and obtained pursuant to Articles 6A or 6B of Chapter 147 of the General Statutes or G.S. 159-32.1.

(3) Reveals a document, file number, password, or any other information maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes.

(4) Reveals the electronically captured image of an individual's signature, date of birth, drivers license number, or a portion of an individual's social security number if the agency has those items because they are on a voter registration document.

(5) Reveals the seal of a licensed design professional who is licensed under Chapter 83A or Chapter 89C of the General Statutes that has been submitted for project approval to (i) a municipality under Part 5 of Article 19 of Chapter 160A of the General Statutes or (ii) to a county under Part 4 of Article 18 of Chapter 153A of the General Statutes. Notwithstanding this exemption, a municipality or county that receives a request for a document submitted for project approval that contains the seal of a licensed design professional who is licensed under Chapter 83A or Chapter 89C of the General Statutes and that is otherwise a public record by G.S. 132-1 shall allow a copy of the document without the seal of the licensed design professional to be examined and copied, consistent with any rules adopted by the licensing board under Chapter 83A or Chapter 89C of the General Statutes regarding an unsealed document.

(6) Reveals documents related to the federal government's process to determine closure or realignment of military installations until a final decision has been made by the federal government in that process.

(7) Reveals name, address, qualifications, and other identifying information of any person or entity that manufactures, compounds, prepares, prescribes, dispenses, supplies, or administers the drugs or supplies obtained for any purpose authorized by Article 19 of Chapter 15 of the General Statutes.

(1989, c. 269; 1991, c. 745, s. 3; 1999-434, s. 7; 2001-455, s. 2; 2001-513, s. 30(b); 2003-226, s. 5; 2004-127, s. 17(b); 2009-346, s. 1; 2014-79, s. 8; 2015-198, s. 6.)

§ 132-1.3. Settlements made by or on behalf of public agencies, public officials, or public employees; public records.

(a) Public records, as defined in G.S. 132-1, shall include all settlement documents in any suit, administrative proceeding or arbitration instituted against any agency of North Carolina government or its subdivisions, as defined in G.S. 132-1, in connection with or arising out of such agency's official actions, duties or responsibilities, except in an action for medical malpractice against a hospital facility. No agency of North Carolina government or its subdivisions, nor any counsel, insurance company or other representative acting on behalf of such agency, shall approve, accept or enter into any settlement of any such suit, arbitration or proceeding if the settlement provides that its terms and conditions shall be confidential, except in an action for medical malpractice against a hospital facility. No settlement document sealed under subsection (b) of this section shall be open for public inspection.

(b) No judge, administrative judge or administrative hearing officer of this State, nor any board or commission, nor any arbitrator appointed pursuant to the laws of North Carolina, shall order or permit the sealing of any settlement document in any proceeding described herein except on the basis of a written order concluding that (1) the presumption of openness is overcome by an overriding interest and (2) that such overriding interest cannot be protected by any measure short of sealing the settlement. Such order shall articulate the overriding interest and shall include findings of fact that are sufficiently specific to permit a reviewing court to determine whether the order was proper.

(c) Except for confidential communications as provided in G.S. 132-1.1, the term "settlement documents," as used herein, shall include all documents which reflect, or which are made or utilized in connection with, the terms and conditions upon which any proceedings described in this section are compromised, settled, terminated or dismissed, including but not limited to correspondence, settlement agreements, consent orders, checks, and bank drafts. (1989, c. 326.)

§ 132-1.4. Criminal investigations; intelligence information records; Innocence Inquiry Commission records.

(a) Records of criminal investigations conducted by public law enforcement agencies, records of criminal intelligence information compiled by public law enforcement agencies, and records of investigations conducted by the North Carolina Innocence Inquiry Commission, are not public records as defined by G.S. 132-1. Records of criminal investigations conducted by public law enforcement agencies or records of criminal intelligence information may be released by order of a court of competent jurisdiction.

(b) As used in this section:

(1) "Records of criminal investigations" means all records or any information that pertains to a person or group of persons that is compiled by public law enforcement agencies for the purpose of attempting to prevent or solve violations of the law, including information derived from witnesses, laboratory tests, surveillance, investigators, confidential informants, photographs, and measurements. The term also includes any records,

worksheets, reports, or analyses prepared or conducted by the North Carolina State Crime Laboratory at the request of any public law enforcement agency in connection with a criminal investigation.

(2) "Records of criminal intelligence information" means records or information that pertain to a person or group of persons that is compiled by a public law enforcement agency in an effort to anticipate, prevent, or monitor possible violations of the law.

(3) "Public law enforcement agency" means a municipal police department, a county police department, a sheriff's department, a company police agency commissioned by the Attorney General pursuant to G.S. 74E-1, et seq., and any State or local agency, force, department, or unit responsible for investigating, preventing, or solving violations of the law.

(4) "Violations of the law" means crimes and offenses that are prosecutable in the criminal courts in this State or the United States and infractions as defined in G.S. 14-3.1.

(5) "Complaining witness" means an alleged victim or other person who reports a violation or apparent violation of the law to a public law enforcement agency.

(c) Notwithstanding the provisions of this section, and unless otherwise prohibited by law, the following information shall be public records within the meaning of G.S. 132-1.

(1) The time, date, location, and nature of a violation or apparent violation of the law reported to a public law enforcement agency.

(2) The name, sex, age, address, employment, and alleged violation of law of a person arrested, charged, or indicted.

(3) The circumstances surrounding an arrest, including the time and place of the arrest, whether the arrest involved resistance, possession or use of weapons, or pursuit, and a description of any items seized in connection with the arrest.

(4) The contents of "911" and other emergency telephone calls received by or on behalf of public law enforcement agencies, except for such contents that reveal the natural voice, name, address, telephone number, or other information that may identify the caller, victim, or witness. In order to protect the identity of the complaining witness, the contents of "911" and other emergency telephone calls may be released pursuant to this section in the form of a written transcript or altered voice reproduction; provided that the original shall be provided under process to be used as evidence in any relevant civil or criminal proceeding.

(5) The contents of communications between or among employees of public law enforcement agencies that are broadcast over the public airways.

(6) The name, sex, age, and address of a complaining witness.

(d) A public law enforcement agency shall temporarily withhold the name or address of a complaining witness if release of the information is reasonably likely to pose a threat to the mental health, physical health, or personal safety of the complaining witness or materially compromise a continuing or future criminal investigation or criminal intelligence operation. Information temporarily withheld under this subsection shall be made available for release to the public in accordance with G.S. 132-6 as soon as the circumstances that justify withholding it cease to exist. Any person denied access to information withheld under this subsection may apply to a court of competent jurisdiction for an order compelling disclosure of the information.

In such action, the court shall balance the interests of the public in disclosure against the interests of the law enforcement agency and the alleged victim in withholding the information. Actions brought pursuant to this subsection shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(e) If a public law enforcement agency believes that release of information that is a public record under subdivisions (c)(1) through (c)(5) of this section will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. In such action the law enforcement agency shall have the burden of showing by a preponderance of the evidence that disclosure of the information in question will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial or will undermine an ongoing or future investigation. Actions brought pursuant to this subsection shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(f) Nothing in this section shall be construed as authorizing any public law enforcement agency to prohibit or prevent another public agency having custody of a public record from permitting the inspection, examination, or copying of such public record in compliance with G.S. 132-6. The use of a public record in connection with a criminal investigation or the gathering of criminal intelligence shall not affect its status as a public record.

(g) Disclosure of records of criminal investigations and criminal intelligence information that have been transmitted to a district attorney or other attorney authorized to prosecute a violation of law shall be governed by this section and Chapter 15A of the General Statutes.

(h) Nothing in this section shall be construed as requiring law enforcement agencies to disclose the following:

(1) Information that would not be required to be disclosed under Chapter 15A of the General Statutes; or

(2) Information that is reasonably likely to identify a confidential informant.

(i) Law enforcement agencies shall not be required to maintain any tape recordings of "911" or other communications for more than 30 days from the time of the call, unless a court of competent jurisdiction orders a portion sealed.

(j) When information that is not a public record under the provisions of this section is deleted from a document, tape recording, or other record, the law enforcement agency shall make clear that a deletion has been made. Nothing in this subsection shall authorize the destruction of the original record.

(k) The following court records are public records and may be withheld only when sealed by court order: arrest and search warrants that have been returned by law enforcement agencies, indictments, criminal summons, and nontestimonial identification orders.

(l) Records of investigations of alleged child abuse shall be governed by Article 29 of Chapter 7B of the General Statutes. (1993, c. 461, s. 1; 1998-202, s. 13(jj); 2006-184, s. 7; 2010-171, s. 5; 2011-321, s. 1; 2013-360, s. 17.6(o).)

§ 132-1.4A. Law enforcement agency recordings.

(a) Definitions. – The following definitions apply in this section:

(1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency

personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.

(2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.

(3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.

(4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.

(5) Personal representative. – A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased.

(6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.

(7) Release. – To provide a copy of a recording.

(b) Public Record and Personnel Record Classification. – Recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

(c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section. A person requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

(1) A person whose image or voice is in the recording.

(2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.

(3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.

(4) A personal representative of a deceased person whose image or voice is in the recording.

(5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

(d) Disclosure; Factors for Consideration. – Upon receipt of the written request for disclosure, as promptly as possible, the custodial law enforcement agency must either disclose the portion of the recording relevant to the person's request or notify the requestor of the custodial law enforcement agency's decision not to disclose the recording to the requestor.

The custodial law enforcement agency may consider any of the following factors in determining if a recording is disclosed:

(1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
(2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
(3) If disclosure would reveal information regarding a person that is of a highly sensitive personal nature.
(4) If disclosure may harm the reputation or jeopardize the safety of a person.
(5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
(6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

(e) Appeal of Disclosure Denial. – If a law enforcement agency denies disclosure pursuant to subsection (d) of this section, or has failed to provide disclosure more than three business days after the request for disclosure, the person seeking disclosure may apply to the superior court in any county where any portion of the recording was made for a review of the denial of disclosure. The court may conduct an in-camera review of the recording. The court may order the disclosure of the recording only if the court finds that the law enforcement agency abused its discretion in denying the request for disclosure. The court may only order disclosure of those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording. An order issued pursuant to this subsection may not order the release of the recording.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(f) Release of Recordings to Certain Persons; Expedited Process. – Notwithstanding the provisions of subsection (g) of this section, a person authorized to receive disclosure pursuant to subsection (c) of this section, or the custodial law enforcement agency, may petition the superior court in any county where any portion of the recording was made for an order releasing the recording to a person authorized to receive disclosure. There shall be no fee for filing the petition which shall be filed on a form approved by the Administrative Office of the Courts and shall state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording. If the petitioner is a person authorized to receive disclosure, notice and an opportunity to be heard shall

be given to the head of the custodial law enforcement agency. Petitions filed pursuant to this subsection shall be set down for hearing as soon as practicable and shall be accorded priority by the court.

The court shall first determine if the person to whom release of the recording is requested is a person authorized to receive disclosure pursuant to subsection (c) of this section. In making this determination, the court may conduct an in-camera review of the recording and may, in its discretion, allow the petitioner to be present to assist in identifying the image or voice in the recording that authorizes disclosure to the person to whom release is requested. If the court determines that the person is not authorized to receive disclosure pursuant to subsection (c) of this section, there shall be no right of appeal and the petitioner may file an action for release pursuant to subsection (g) of this section.

If the court determines that the person to whom release of the recording is requested is a person authorized to receive disclosure pursuant to subsection (c) of this section, the court shall consider the standards set out in subsection (g) of this section and any other standards the court deems relevant in determining whether to order the release of all or a portion of the recording. The court may conduct an in-camera review of the recording. The court shall release only those portions of the recording that are relevant to the person's request and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

(g) Release of Recordings; General; Court Order Required. – Recordings in the custody of a law enforcement agency shall only be released pursuant to court order. Any custodial law enforcement agency or any person requesting release of a recording may file an action in the superior court in any county where any portion of the recording was made for an order releasing the recording. The request for release must state the date and approximate time of the activity captured in the recording, or otherwise identify the activity with reasonable particularity sufficient to identify the recording to which the action refers. The court may conduct an in-camera review of the recording. In determining whether to order the release of all or a portion of the recording, in addition to any other standards the court deems relevant, the court shall consider the applicability of all of the following standards:

(1) Release is necessary to advance a compelling public interest.
(2) The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
(3) The person requesting release is seeking to obtain evidence to determine legal issues in a current or potential court proceeding.
(4) Release would reveal information regarding a person that is of a highly sensitive personal nature.
(5) Release may harm the reputation or jeopardize the safety of a person.
(6) Release would create a serious threat to the fair, impartial, and orderly administration of justice.
(7) Confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.
(8) There is good cause shown to release all portions of a recording.

The court shall release only those portions of the recording that are relevant to the person's request, and may place any conditions or restrictions on the release of the recording that the court, in its discretion, deems appropriate.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any

proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency, and (iii) the District Attorney. Actions brought pursuant to this subsection shall be set down for hearing as soon as practicable, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(h) Release of Recordings; Law Enforcement Purposes. – Notwithstanding the requirements of subsections (c), (f), and (g) of this section, a custodial law enforcement agency shall disclose or release a recording to a district attorney (i) for review of potential criminal charges, (ii) in order to comply with discovery requirements in a criminal prosecution, (iii) for use in criminal proceedings in district court, or (iv) any other law enforcement purpose, and may disclose or release a recording for any of the following purposes:

(1) For law enforcement training purposes.

(2) Within the custodial law enforcement agency for any administrative, training, or law enforcement purpose.

(3) To another law enforcement agency for law enforcement purposes.

(i) Retention of Recordings. – Any recording subject to the provisions of this section shall be retained for at least the period of time required by the applicable records retention and disposition schedule developed by the Department of Natural and Cultural Resources, Division of Archives and Records.

(j) Agency Policy Required. – Each law enforcement agency that uses body-worn cameras or dashboard cameras shall adopt a policy applicable to the use of those cameras.

(k) No civil liability shall arise from compliance with the provisions of this section, provided that the acts or omissions are made in good faith and do not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing.

(l) Fee for Copies. – A law enforcement agency may charge a fee to offset the cost incurred by it to make a copy of a recording for release. The fee shall not exceed the actual cost of making the copy.

(m) Attorneys' Fees. – The court may not award attorneys' fees to any party in any action brought pursuant to this section. (2016-88, s. 1.)

§ 132-1.5. 911 database.

Automatic number identification and automatic location identification information that consists of the name, address, and telephone numbers of telephone subscribers, or the e-mail addresses of subscribers to an electronic emergency notification or reverse 911 system, that is contained in a county or municipal 911 database, or in a county or municipal telephonic or electronic emergency notification or reverse 911 system, is confidential and is not a public record as defined by Chapter 132 of the General Statutes if that information is required to be confidential by the agreement with the telephone company by which the information was obtained. Dissemination of the information contained in the 911, electronic emergency notification or reverse 911 system, or automatic number and automatic location database is prohibited except on a call-by-call basis only for the purpose of handling emergency calls or for training, and any permanent record of the information shall be secured by the public safety answering points and disposed of in a manner which will retain that security except as otherwise required by applicable law. (1997-287, s. 1; 2007-107, s. 3.2(a).)

§ 132-1.6. Emergency response plans.

Emergency response plans adopted by a constituent institution of The University of North Carolina, a community college, or a public hospital as defined in G.S. 159-39 and the records related to the planning and development of these emergency response plans are not public records as defined by G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6. (2001-500, s. 3.1.)

§ 132-1.7. Sensitive public security information.

(a) Public records, as defined in G.S. 132-1, shall not include information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities or plans, schedules, or other documents that include information regarding patterns or practices associated with executive protection and security.

(a1) Public records, as defined in G.S. 132-1, shall not include specific security information or detailed plans, patterns, or practices associated with prison operations.

(a2) Public records, as defined in G.S. 132-1, shall not include specific security information or detailed plans, patterns, or practices to prevent or respond to criminal, gang, or organized illegal activity.

(b) Public records as defined in G.S. 132-1 do not include plans to prevent or respond to terrorist activity, to the extent such records set forth vulnerability and risk assessments, potential targets, specific tactics, or specific security or emergency procedures, the disclosure of which would jeopardize the safety of governmental personnel or the general public or the security of any governmental facility, building, structure, or information storage system.

(b1) Public records shall not include mobile telephone numbers issued by a local, county, or State government to any of the following:

(1) A sworn law enforcement officer or nonsworn employee of a public law enforcement agency.

(2) An employee of a fire department.

(3) Any employee whose duties include responding to an emergency.

(c) Information relating to the general adoption of public security plans and arrangements, and budgetary information concerning the authorization or expenditure of public funds to implement public security plans and arrangements, or for the construction, renovation, or repair of public buildings and infrastructure facilities shall be public records. (2001-516, s. 3; 2003-180, s. 1; 2015-225, s. 3; 2015-241, s. 16A.5.)

§ 132-1.7A. Alarm registration information.

A public record, as defined by G.S. 132-1, does not include any registration or sensitive security information received or compiled by a city pursuant to an alarm registration ordinance. For purposes of this section, the term "alarm registration ordinance" means an ordinance adopted by a city that requires owners of security, burglar, fire, or similar alarm systems to register with the city. Information that is deemed confidential under this section and is not open to public inspection, examination, or copying includes registration information, including the name, home and business telephone number, and any other personal identifying information provided by an applicant pursuant to an alarm registration ordinance, and any sensitive security information pertaining to an applicant's alarm system, including residential or office blueprints, alarm system schematics, and similar drawings or diagrams. (2015-189, s. 1.)

§ 132-1.8. Confidentiality of photographs and video or audio recordings made pursuant to autopsy.

Except as otherwise provided in G.S. 130A-389.1, a photograph or video or audio recording of an official autopsy is not a public record as defined by G.S. 132-1. However, the text of an official autopsy report, including any findings and interpretations prepared in accordance with G.S. 130A-389(a), is a public record and fully accessible by the public. For purposes of this section, an official autopsy is an autopsy performed pursuant to G.S. 130A-389(a). (2005-393, s. 1.)

§ 132-1.9. Trial preparation materials.

(a) Scope. – A request to inspect, examine, or copy a public record that is also trial preparation material is governed by this section, and, to the extent this section conflicts with any other provision of law, this section applies.

(b) Right to Deny Access. – Except as otherwise provided in this section, a custodian may deny access to a public record that is also trial preparation material. If the denial is based on an assertion that the public record is trial preparation material that was prepared in anticipation of a legal proceeding that has not commenced, the custodian shall, upon request, provide a written justification for the assertion that the public record was prepared in anticipation of a legal proceeding.

(c) Trial Preparation Material Prepared in Anticipation of a Legal Proceeding. – Any person who is denied access to a public record that is also claimed to be trial preparation material that was prepared in anticipation of a legal proceeding that has not yet been commenced may petition the court pursuant to G.S. 132-9 for determination as to whether the public record is trial preparation material that was prepared in anticipation of a legal proceeding.

(d) During a Legal Proceeding. –

(1) When a legal proceeding is subject to G.S. 1A-1, Rule 26(b)(3), or subject to Rule 26(b)(3) of the Federal Rules of Civil Procedure, a party to the pending legal proceeding, including any appeals and postjudgment proceedings, who is denied access to a public record that is also claimed to be trial preparation material that pertains to the pending proceeding may seek access to such record only by motion made in the pending legal proceeding and pursuant to the procedural and substantive standards that apply to that proceeding. A party to the pending legal proceeding may not directly or indirectly commence a separate proceeding for release of such record pursuant to G.S. 132-9 in any other court or tribunal.

(2) When a legal proceeding is not subject to G.S. 1A-1, Rule 26(b)(3), and not subject to Rule 26(b)(3) of the Federal Rules of Civil Procedure, a party to the pending legal proceeding, including any appeals and postjudgment proceedings, who is denied access to a public record that is also claimed to be trial preparation material that pertains to the pending legal proceeding may petition the court pursuant to G.S. 132-9 for access to such record. In determining whether to require the custodian to provide access to all or any portion of the record, the court or other tribunal shall apply the provisions of G.S. 1A-1, Rule 26(b)(3).

(3) Any person who is denied access to a public record that is also claimed to be trial preparation material and who is not a party to the pending legal

proceeding to which such record pertains, and who is not acting in concert with or as an agent for any party to the pending legal proceeding, may petition the court pursuant to G.S. 132-9 for a determination as to whether the public record is trial preparation material.

(e) Following a Legal Proceeding. – Upon the conclusion of a legal proceeding, including the completion of all appeals and postjudgment proceedings, or, in the case where no legal proceeding has been commenced, upon the expiration of all applicable statutes of limitations and periods of repose, the custodian of a public record that is also claimed to be trial preparation material shall permit the inspection, examination, or copying of such record if any law that is applicable so provides.

(f) Effect of Disclosure. – Disclosure pursuant to this section of all or any portion of a public record that is also trial preparation material, whether voluntary or pursuant to an order issued by a court, or issued by an officer in an administrative or quasi-judicial legal proceeding, shall not constitute a waiver of the right to claim that any other document or record constitutes trial preparation material.

(g) Trial Preparation Materials That Are Not Public Records. – This section does not require disclosure, or authorize a court to require disclosure, of trial preparation material that is not also a public record or that is under other provisions of this Chapter exempted or protected from disclosure by law or by an order issued by a court, or by an officer in an administrative or quasi-judicial legal proceeding.

(h) Definitions. – As used in this section, the following definitions apply:

(1) Legal proceeding. – Civil proceedings in any federal or State court. Legal proceeding also includes any federal, State, or local government administrative or quasi-judicial proceeding that is not expressly subject to the provisions of Chapter 1A of the General Statutes or the Federal Rules of Civil Procedure.

(2) Trial preparation material. – Any record, wherever located and in whatever form, that is trial preparation material within the meaning of G.S. 1A-1, Rule 26(b)(3), any comparable material prepared for any other legal proceeding, and any comparable material exchanged pursuant to a joint defense, joint prosecution, or joint interest agreement in connection with any pending or anticipated legal proceeding. (2005-332, s. 1; 2005-414, s. 4.)

§ 132-1.10. Social security numbers and other personal identifying information.

(a) The General Assembly finds the following:

(1) The social security number can be used as a tool to perpetuate fraud against a person and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual. While the social security number was intended to be used solely for the administration of the federal Social Security System, over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes.

(2) Although there are legitimate reasons for State and local government agencies to collect social security numbers and other personal identifying information from individuals, government should collect the information only for legitimate purposes or when required by law.

(3) When State and local government agencies possess social security numbers or other personal identifying information, the governments should minimize the instances this information is disseminated either internally within government or externally with the general public.

(b) Except as provided in subsections (c) and (d) of this section, no agency of the State or its political subdivisions, or any agent or employee of a government agency, shall do any of the following:

(1) Collect a social security number from an individual unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Social security numbers collected by an agency must be relevant to the purpose for which collected and shall not be collected until and unless the need for social security numbers has been clearly documented.

(2) Fail, when collecting a social security number from an individual, to segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the social security number can be more easily redacted pursuant to a valid public records request.

(3) Fail, when collecting a social security number from an individual, to provide, at the time of or prior to the actual collection of the social security number by that agency, that individual, upon request, with a statement of the purpose or purposes for which the social security number is being collected and used.

(4) Use the social security number for any purpose other than the purpose stated.

(5) **(For applicability date – See Editor's note)** Intentionally communicate or otherwise make available to the general public a person's social security number or other identifying information. "Identifying information", as used in this subdivision, shall have the same meaning as in G.S. 14-113.20(b), except it shall not include electronic identification numbers, electronic mail names or addresses, Internet account numbers, Internet identification names, parent's legal surname prior to marriage, or drivers license numbers appearing on law enforcement records. Identifying information shall be confidential and not be a public record under this Chapter. A record, with identifying information removed or redacted, is a public record if it would otherwise be a public record under this Chapter but for the identifying information. The presence of identifying information in a public record does not change the nature of the public record. If all other public records requirements are met under this Chapter, the agency of the State or its political subdivisions shall respond to a public records request, even if the records contain identifying information, as promptly as possible, by providing the public record with the identifying information removed or redacted.

(6) Intentionally print or imbed an individual's social security number on any card required for the individual to access government services.

(7) Require an individual to transmit the individual's social security number over the Internet, unless the connection is secure or the social security number is encrypted.

(8) Require an individual to use the individual's social security number to access an Internet Web site, unless a password or unique personal identification

number or other authentication device is also required to access the Internet Web site.

(9) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law required that the social security number be on the document to be mailed. A social security number that is permitted to be mailed under this subdivision may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(c) Subsection (b) of this section does not apply in the following circumstances:

(1) To social security numbers or other identifying information disclosed to another governmental entity or its agents, employees, or contractors if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving governmental entity and its agents, employees, and contractors shall maintain the confidential and exempt status of such numbers.

(2) To social security numbers or other identifying information disclosed pursuant to a court order, warrant, or subpoena.

(3) To social security numbers or other identifying information disclosed for public health purposes pursuant to and in compliance with Chapter 130A of the General Statutes.

(4) To social security numbers or other identifying information that have been redacted.

(5) To certified copies of vital records issued by the State Registrar and other authorized officials pursuant to G.S. 130A-93(c). The State Registrar may disclose any identifying information other than social security numbers on any uncertified vital record.

(6) To any recorded document in the official records of the register of deeds of the county.

(7) To any document filed in the official records of the courts.

(c1) If an agency of the State or its political subdivisions, or any agent or employee of a government agency, experiences a security breach, as defined in Article 2A of Chapter 75 of the General Statutes, the agency shall comply with the requirements of G.S. 75-65.

(d) No person preparing or filing a document to be recorded or filed in the official records of the register of deeds, the Department of the Secretary of State, or of the courts may include any person's social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords in that document, unless otherwise expressly required by law or court order, adopted by the State Registrar on records of vital events, or redacted. Any loan closing instruction that requires the inclusion of a person's social security number on a document to be recorded shall be void. Any person who violates this subsection shall be guilty of an infraction, punishable by a fine not to exceed five hundred dollars ($500.00) for each violation.

(e) The validity of an instrument as between the parties to the instrument is not affected by the inclusion of personal information on a document recorded or filed with the official records of the register of deeds or the Department of the Secretary of State. The register of deeds or the

Department of the Secretary of State may not reject an instrument presented for recording because the instrument contains an individual's personal information.

(f) Any person has the right to request that a register of deeds or clerk of court remove, from an image or copy of an official record placed on a register of deeds' or court's Internet Website available to the general public or an Internet Web site available to the general public used by a register of deeds or court to display public records by the register of deeds or clerk of court, the person's social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords contained in that official record. The request must be made in writing, legibly signed by the requester, and delivered by mail, facsimile, or electronic transmission, or delivered in person to the register of deeds or clerk of court. The request must specify the personal information to be redacted, information that identifies the document that contains the personal information and unique information that identifies the location within the document that contains the social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords to be redacted. The request for redaction shall be considered a public record with access restricted to the register of deeds, the clerk of court, their staff, or upon order of the court. The register of deeds or clerk of court shall have no duty to inquire beyond the written request to verify the identity of a person requesting redaction and shall have no duty to remove redaction for any reason upon subsequent request by an individual or by order of the court, if impossible to do so. No fee will be charged for the redaction pursuant to such request. Any person who requests a redaction without proper authority to do so shall be guilty of an infraction, punishable by a fine not to exceed five hundred dollars ($500.00) for each violation.

(f1) Without a request made pursuant to subsection (f) of this section, a register of deeds or clerk of court may remove from an image or copy of an official record placed on a register of deeds' or clerk of court's Internet Web site available to the general public, or placed on an Internet Web site available to the general public used by a register of deeds or clerk of court to display public records, a person's social security or drivers license number contained in that official record. Registers of deeds and clerks of court may apply optical character recognition technology or other reasonably available technology to official records placed on Internet Web sites available to the general public in order to, in good faith, identify and redact social security and drivers license numbers.

(g) A register of deeds or clerk of court shall immediately and conspicuously post signs throughout his or her offices for public viewing and shall immediately and conspicuously post a notice on any Internet Web site available to the general public used by a register of deeds or clerk of court a notice stating, in substantially similar form, the following:

(1) Any person preparing or filing a document for recordation or filing in the official records may not include a social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords in the document, unless expressly required by law or court order, adopted by the State Registrar on records of vital events, or redacted so that no more than the last four digits of the identification number is included.

(2) Any person has a right to request a register of deeds or clerk of court to remove, from an image or copy of an official record placed on a register of deeds' or clerk of court's Internet Web site available to the general public or on an Internet Web site available to the general public used by a register of deeds or clerk of court to display public records, any social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords contained in an official record. The request must be made in writing and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the register of deeds or clerk of court. The request must specify the personal information to be redacted, information that identifies the document that contains the personal information and unique information that identifies the location within the document that contains the social security, employer taxpayer identification, drivers license, state identification, passport, checking account, savings account, credit card, or debit card number, or personal identification (PIN) code or passwords to be redacted. No fee will be charged for the redaction pursuant to such a request. Any person who requests a redaction without proper authority to do so shall be guilty of an infraction, punishable by a fine not to exceed five hundred dollars ($500.00) for each violation.

(h) Any affected person may petition the court for an order directing compliance with this section. No liability shall accrue to a register of deeds or clerk of court or to his or her agent for any action related to provisions of this section or for any claims or damages that might result from a social security number or other identifying information on the public record or on a register of deeds' or clerk of court's Internet website available to the general public or an Internet Web site available to the general public used by a register of deeds or clerk of court. (2005-414, s. 4; 2006-173, ss. 1-7; 2009-355, s. 3.)

§ 132-1.11. Economic development incentives.

(a) Assumptions and Methodologies. – Subject to the provisions of this Chapter regarding confidential information and the withholding of public records relating to the proposed expansion or location of specific business or industrial projects when the release of those records would frustrate the purpose for which they were created, whenever a public agency or its subdivision performs a cost-benefit analysis or similar assessment with respect to economic development incentives offered to a specific business or industrial project, the agency or its subdivision must describe in detail the assumptions and methodologies used in completing the analysis or assessment. This description is a public record and is subject to all provisions of this Chapter and other law regarding public records.

(b) Disclosure of Public Records Requirements. – Whenever an agency or its subdivision first proposes, negotiates, or accepts an application for economic development incentives with respect to a specific industrial or business project, the agency or subdivision must disclose that any information obtained by the agency or subdivision is subject to laws regarding disclosure of public records. In addition, the agency or subdivision must fully and accurately describe the instances in which confidential information may be withheld from disclosure, the types of information that qualify as confidential information, and the methods for ensuring that confidential information is not disclosed. (2005-429, s. 1.2.)

§ 132-1.11A. Limited access to identifying information of minors participating in local government programs and programs funded by the North Carolina Partnership for Children, Inc., or a local partnership in certain localities.

(a) A public record, as defined by G.S. 132-1, does not include, as to any minor participating in a program sponsored by a local government or combination of local governments, a program funded by the North Carolina Partnership for Children, Inc., under G.S. 143B-168.12, or a program funded by a local partnership under G.S. 143B-168.14, any of the following information as to that minor participant: (i) name, (ii) address, (iii) age, (iv) date of birth, (v) telephone number, (vi) the name or address of that minor participant's parent or legal guardian, (vii) e-mail address, or (viii) any other identifying information on an application to participate in such program or other records related to that program. Notwithstanding this subsection, the name of a minor who has received a scholarship or other local government-funded award of a financial nature from a local government is a public record.

(b) The county, municipality, and zip code of residence of each participating minor covered by subsection (a) of this section is a public record, with the information listed in subsection (a) of this section redacted.

(c) Nothing in this section makes the information listed in subsection (a) of this section confidential information.

(d) This section applies to the County of Chatham, the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon, and the City of Raleigh only. (2008-126, s. 1; 2012-67, s. 1; 2012-139, s. 1(a), (b); 2012-194, s. 70.5(a), (c).)

§ 132-1.12. Limited access to identifying information of minors participating in local government parks and recreation programs and programs funded by the North Carolina Partnership for Children, Inc., or a local partnership in other localities.

(a) A public record, as defined by G.S. 132-1, does not include, as to any minor participating in a park or recreation program sponsored by a local government or combination of local governments, a program funded by the North Carolina Partnership for Children, Inc., under G.S. 143B-168.12, or a program funded by a local partnership under G.S. 143B-168.14, any of the following information as to that minor participant: (i) name, (ii) address, (iii) age, (iv) date of birth, (v) telephone number, (vi) the name or address of that minor participant's parent or legal guardian, or (vii) any other identifying information on an application to participate in such program or other records related to that program.

(b) The county, municipality, and zip code of residence of each participating minor covered by subsection (a) of this section is a public record, with the information listed in subsection (a) of this section redacted.

(c) Nothing in this section makes the information listed in subsection (a) of this section confidential information. (2008-126, s. 1; 2012-67, s. 1.)

§ 132-1.13. Electronic lists of subscribers open for inspection but not available for copying.

(a) Notwithstanding this chapter, when a unit of local government maintains an electronic mail list of individual subscribers, this chapter does not require that unit of local government to provide a copy of the list. The list shall be available for public inspection in either printed or electronic format or both as the unit of local government elects.

(b) If a unit of local government maintains an electronic mail list of individual subscribers, the unit of local government and its employees and officers may use that list only: (i) for the purpose for which it was subscribed to; (ii) to notify subscribers of an emergency to the public health or public safety; or (iii) in case of deletion of that list, to notify subscribers of the existence of any similar lists to subscribe to.

(c) Repealed by Session Laws 2011-54, s. 1, effective April 28, 2011. (2010-83, ss. 1-3; 2011-54, s. 1.)

§ 132-1.14: Reserved for future codification purposes.

§ 132-1.15: Reserved for future codification purposes.

§ 132-1.16: Reserved for future codification purposes.

§ 132-1.17: Reserved for future codification purposes.

§ 132-1.18: Reserved for future codification purposes.

§ 132-1.19: Reserved for future codification purposes.

§ 132-1.20: Reserved for future codification purposes.

§ 132-1.21: Reserved for future codification purposes.

§ 132-1.22: Reserved for future codification purposes.

§ 132-1.23. Eugenics program records.

(a) Records in the custody of the State, including those in the custody of the Office of Justice for Sterilization Victims, concerning the Eugenics Board of North Carolina's program are confidential and are not public records, including the records identifying (i) individuals impacted by the program, (ii) individuals, or their guardians or authorized agents, inquiring about the impact of the program on the individuals, or (iii) individuals, or their guardians or authorized agents, inquiring about the potential impact of the program on others.

(b) Notwithstanding subsection (a) of this section, an individual impacted by the program, or a guardian or authorized agent of that individual, may obtain that individual's records under the program upon execution of a proper release authorization.

(c) Notwithstanding subsections (a) and (b) of this section, minutes or reports of the Eugenics Board of North Carolina, for which identifying information of the individuals impacted by the program have been redacted, may be released to any person. As used in this subsection, "identifying information" shall include the name, street address, birth day and month, and any other information the State believes may lead to the identity of any individual impacted by the program, or of any relative of an individual impacted by the program. (2011-188, s. 1; 2013-360, s. 6.18(c); 2014-100, s. 6.13(e).)

§ 132-2. Custodian designated.

The public official in charge of an office having public records shall be the custodian thereof. (1935, c. 265, s. 2.)

§ 132-3. Destruction of records regulated.

(a) Prohibition. – No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5 and G.S. 130A-99, without the consent of the Department of Natural and Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00).

(b) Revenue Records. – Notwithstanding subsection (a) of this section and G.S. 121-5, when a record of the Department of Revenue has been copied in any manner, the original record may be destroyed upon the order of the Secretary of Revenue. If a record of the Department of Revenue has not been copied, the original record shall be preserved for at least three years. After three years the original record may be destroyed upon the order of the Secretary of Revenue.

(c) Employment Security Records. – Notwithstanding subsection (a) of this section and G.S. 121-5, when a record of the Division of Employment Security has been copied in any manner, the original record may be destroyed upon the order of the Division. If a record of that Division has not been copied, the original record shall be preserved for at least three years. After three years the original record may be destroyed upon the order of the Assistant Secretary of Commerce. (1935, c. 265, s. 3; 1943, c. 237; 1953, c. 675, s. 17; 1957, c. 330, s. 2; 1973, c. 476, s. 48; 1993, c. 485, s. 39; c. 539, s. 966; 1994, Ex. Sess., c. 24, s. 14(c); 1997-309, s. 12; 2001-115, s. 2; 2011-401, s. 3.16; 2015-241, s. 14.30(s).)

§ 132-4. Disposition of records at end of official's term.

Whoever has the custody of any public records shall, at the expiration of his term of office, deliver to his successor, or, if there be none, to the Department of Natural and Cultural Resources, all records, books, writings, letters and documents kept or received by him in the transaction of his official business; and any such person who shall refuse or neglect for the space of 10 days after request made in writing by any citizen of the State to deliver as herein required such public records to the person authorized to receive them shall be guilty of a Class 1 misdemeanor. (1935, c. 265, s. 4; 1943, c. 237; 1973, c. 476, s. 48; 1975, c. 696, s. 1; 1993, c. 539, s. 967; 1994, Ex. Sess., c. 24, s. 14(c); 2015-241, s. 14.30(s).)

§ 132-5. Demanding custody.

Whoever is entitled to the custody of public records shall demand them from any person having illegal possession of them, who shall forthwith deliver the same to him. If the person who unlawfully possesses public records shall without just cause refuse or neglect for 10 days after a request made in writing by any citizen of the State to deliver such records to their lawful custodian, he shall be guilty of a Class 1 misdemeanor. (1935, c. 265, s. 5; 1975, c. 696, s. 2; 1993, c. 539, s. 968; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 132-5.1. Regaining custody; civil remedies.

(a) The Secretary of the Department of Natural and Cultural Resources or his designated representative or any public official who is the custodian of public records which are in the possession of a person or agency not authorized by the custodian or by law to possess such

public records may petition the superior court in the county in which the person holding such records resides or in which the materials in issue, or any part thereof, are located for the return of such public records. The court may order such public records to be delivered to the petitioner upon finding that the materials in issue are public records and that such public records are in the possession of a person not authorized by the custodian of the public records or by law to possess such public records. If the order of delivery does not receive compliance, the petitioner may request that the court enforce such order through its contempt power and procedures.

(b) At any time after the filing of the petition set out in subsection (a) or contemporaneous with such filing, the public official seeking the return of the public records may by ex parte petition request the judge or the court in which the action was filed to grant one of the following provisional remedies:

(1) An order directed at the sheriff commanding him to seize the materials which are the subject of the action and deliver the same to the court under the circumstances hereinafter set forth; or

(2) A preliminary injunction preventing the sale, removal, disposal or destruction of or damage to such public records pending a final judgment by the court.

(c) The judge or court aforesaid shall issue an order of seizure or grant a preliminary injunction upon receipt of an affidavit from the petitioner which alleges that the materials at issue are public records and that unless one of said provisional remedies is granted, there is a danger that such materials shall be sold, secreted, removed out of the State or otherwise disposed of so as not to be forthcoming to answer the final judgment of the court respecting the same; or that such property may be destroyed or materially damaged or injured if not seized or if injunctive relief is not granted.

(d) The aforementioned order of seizure or preliminary injunction shall issue without notice to the respondent and without the posting of any bond or other security by the petitioner. (1975, c. 787, s. 2; 2015-241, s. 14.30(x).)

§ 132-6. Inspection and examination of records.

(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. As used herein, "custodian" does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing.

(b) No person requesting to inspect and examine public records, or to obtain copies thereof, shall be required to disclose the purpose or motive for the request.

(c) No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information. If it is necessary to separate confidential from nonconfidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation on the following schedule:

State agencies after June 30, 1996;

Municipalities with populations of 10,000 or more, counties with populations of 25,000 or more, as determined by the 1990 U.S. Census, and public hospitals in those counties, after June 30, 1997;

Municipalities with populations of less than 10,000, counties with populations of less than 25,000, as determined by the 1990 U.S. Census, and public hospitals in those counties, after June 30, 1998;

Political subdivisions and their agencies that are not otherwise covered by this schedule, after June 30, 1998.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the proposed expansion or location of specific business or industrial projects may be withheld so long as their inspection, examination or copying would frustrate the purpose for which such public records were created; provided, however, that nothing herein shall be construed to permit the withholding of public records relating to general economic development policies or activities. Once the State, a local government, or the specific business has announced a commitment by the business to expand or locate a specific project in this State or the business has made a final decision not to do so, of which the State or local government agency involved with the project knows or should know, the provisions of this subsection allowing public records to be withheld by the agency no longer apply. Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the announced project that are not otherwise made confidential by law. An announcement that a business or industrial project has committed to expand or locate in the State shall not require disclosure of local government records relating to the project if the business has not selected a specific location within the State for the project. Once a specific location for the project has been determined, local government records must be disclosed, upon request, in accordance with the provisions of this section. For purposes of this section, "local government records" include records maintained by the State that relate to a local government's efforts to attract the project.

Records relating to the proposed expansion or location of specific business or industrial projects that are in the custody of the Department of Commerce or an entity with which the Department contracts pursuant to G.S. 143B-431.01 shall be treated as follows:

(1) Unless controlled by another subdivision of this subsection, the records may be withheld if their inspection, examination, or copying would frustrate the purpose for which the records were created.

(2) If no discretionary incentives pursuant to Chapter 143B of the General Statutes are requested for a project and if the specific business decides to expand or locate the project in the State, then the records relating to the project shall not be disclosed.

(3) If the specific business has requested discretionary incentives for a project pursuant to Chapter 143B of the General Statutes and if either the business decides not to expand or locate the project in the State or the project does not receive the discretionary incentives, then the only records relating to the project that may be disclosed are the requests for discretionary incentives pursuant to Chapter 143B of the General Statutes and any information submitted to the Department by the contracted entity.

(4) If the specific business receives a discretionary incentive for a project pursuant to Chapter 143B of the General Statutes and the State or the specific business announces a commitment to expand or locate the project in this State, all records requested for the announced project, not otherwise made

confidential by law, shall be disclosed as soon as practicable and within 25 days from the date of announcement.

(e) The application of this Chapter is subject to the provisions of Article 1 of Chapter 121 of the General Statutes, the North Carolina Archives and History Act.

(f) Notwithstanding the provisions of subsection (a) of this section, the inspection or copying of any public record which, because of its age or condition could be damaged during inspection or copying, may be made subject to reasonable restrictions intended to preserve the particular record. (1935, c. 265, s. 6; 1987, c. 835, s. 1; 1995, c. 388, s. 2; 2005-429, s. 1.1; 2014-18, s. 1.1(c); 2014-115, s. 56.1.)

§ 132-6.1. Electronic data-processing records.

(a) After June 30, 1996, no public agency shall purchase, lease, create, or otherwise acquire any electronic data-processing system for the storage, manipulation, or retrieval of public records unless it first determines that the system will not impair or impede the agency's ability to permit the public inspection and examination, and to provide electronic copies of such records. Nothing in this subsection shall be construed to require the retention by the public agency of obsolete hardware or software.

(b) Every public agency shall create an index of computer databases compiled or created by a public agency on the following schedule:

State agencies by July 1, 1996;

Municipalities with populations of 10,000 or more, counties with populations of 25,000 or more, as determined by the 1990 U.S. Census, and public hospitals in those counties, by July 1, 1997;

Municipalities with populations of less than 10,000, counties with populations of less than 25,000, as determined by the 1990 U.S. Census, and public hospitals in those counties, by July 1, 1998;

Political subdivisions and their agencies that are not otherwise covered by this schedule, after June 30, 1998.

The index shall be a public record and shall include, at a minimum, the following information with respect to each database listed therein: a list of the data fields; a description of the format or record layout; information as to the frequency with which the database is updated; a list of any data fields to which public access is restricted; a description of each form in which the database can be copied or reproduced using the agency's computer facilities; and a schedule of fees for the production of copies in each available form. Electronic databases compiled or created prior to the date by which the index must be created in accordance with this subsection may be indexed at the public agency's option. The form, content, language, and guidelines for the index and the databases to be indexed shall be developed by the Office of Archives and History in consultation with officials at other public agencies.

(c) Nothing in this section shall require a public agency to create a computer database that the public agency has not otherwise created or is not otherwise required to be created. Nothing in this section requires a public agency to disclose security features of its electronic data processing systems, information technology systems, telecommunications networks, or electronic security systems, including hardware or software security, passwords, or security standards, procedures, processes, configurations, software, and codes.

(d) The following definitions apply in this section:

(1) Computer database. – A structured collection of data or documents residing in a database management program or spreadsheet software.
(2) Computer hardware. – Any tangible machine or device utilized for the electronic storage, manipulation, or retrieval of data.
(3) Computer program. – A series of instructions or statements that permit the storage, manipulation, and retrieval of data within an electronic data-processing system, together with any associated documentation. The term does not include the original data, or any analysis, compilation, or manipulated form of the original data produced by the use of the program or software.
(4) Computer software. – Any set or combination of computer programs. The term does not include the original data, or any analysis, compilation, or manipulated form of the original data produced by the use of the program or software.
(5) Electronic data-processing system. – Computer hardware, computer software, or computer programs or any combination thereof, regardless of kind or origin. (1995, c. 388, s. 3; 2000-71, s. 1; 2002-159, s. 35(i).)

§ 132-6.2. Provisions for copies of public records; fees.

(a) Persons requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. No request for copies of public records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium. The public agency may assess different fees for different media as prescribed by law.

(b) Persons requesting copies of public records may request that the copies be certified or uncertified. The fees for certifying copies of public records shall be as provided by law. Except as otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public record that exceeds the actual cost to the public agency of making the copy. For purposes of this subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been incurred by the public agency if a request to reproduce a public record had not been made. Notwithstanding the provisions of this subsection, 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. 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.

(c) Persons requesting copies of computer databases may be required to make or submit such requests in writing. Custodians of public records shall respond to all such requests as promptly as possible. If the request is granted, the copies shall be provided as soon as reasonably

possible. If the request is denied, the denial shall be accompanied by an explanation of the basis for the denial. If asked to do so, the person denying the request shall, as promptly as possible, reduce the explanation for the denial to writing.

(d) Nothing in this section shall be construed to require a public agency to respond to requests for copies of public records outside of its usual business hours.

(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. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium. (1995, c. 388, s. 3; 2004-129, s. 38.)

§ 132-7. Keeping records in safe places; copying or repairing; certified copies.

Insofar as possible, custodians of public records shall keep them in fireproof safes, vaults, or rooms fitted with noncombustible materials and in such arrangement as to be easily accessible for convenient use. All public records should be kept in the buildings in which they are ordinarily used. Record books should be copied or repaired, renovated or rebound if worn, mutilated, damaged or difficult to read. Whenever any State, county, or municipal records are in need of repair, restoration, or rebinding, the head of such State agency, department, board, or commission, the board of county commissioners of such county, or the governing body of such municipality may authorize that the records in need of repair, restoration, or rebinding be removed from the building or office in which such records are ordinarily kept, for the length of time required to repair, restore, or rebind them. Any public official who causes a record book to be copied shall attest it and shall certify on oath that it is an accurate copy of the original book. The copy shall then have the force of the original. (1935, c. 265, s. 7; 1951, c. 294.)

§ 132-8. Assistance by and to Department of Natural and Cultural Resources.

The Department of Natural and Cultural Resources shall have the right to examine into the condition of public records and shall give advice and assistance to public officials in the solution of their problems of preserving, filing and making available the public records in their custody. When requested by the Department of Natural and Cultural Resources, public officials shall assist the Department in the preparation of an inclusive inventory of records in their custody, to which shall be attached a schedule, approved by the head of the governmental unit or agency having custody of the records and the Secretary of Natural and Cultural Resources, establishing a time period for the retention or disposal of each series of records. Upon the completion of the inventory and schedule, the Department of Natural and Cultural Resources shall (subject to the availability of necessary space, staff, and other facilities for such purposes) make available space in its Records Center for the filing of semicurrent records so scheduled and in its archives for noncurrent records of permanent value, and shall render such other assistance as needed, including the microfilming of records so scheduled. (1935, c. 265, s. 8; 1943, c. 237; 1959, c. 68, s. 2; 1973, c. 476, s. 48; 2015-241, ss. 14.30(s), (t).)

§ 132-8.1. Records management program administered by Department of Natural and Cultural Resources; establishment of standards, procedures, etc.; surveys.

A records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of official

records shall be administered by the Department of Natural and Cultural Resources. It shall be the duty of that Department, in cooperation with and with the approval of the Department of Administration, to establish standards, procedures, and techniques for effective management of public records, to make continuing surveys of paper work operations, and to recommend improvements in current records management practices including the use of space, equipment, and supplies employed in creating, maintaining, and servicing records. It shall be the duty of the head of each State agency and the governing body of each county, municipality and other subdivision of government to cooperate with the Department of Natural and Cultural Resources in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the records of said agency, county, municipality, or other subdivision of government. (1961, c. 1041; 1973, c. 476, s. 48; 2015-241, s. 14.30(s).)

§ 132-8.2. Selection and preservation of records considered essential; making or designation of preservation duplicates; force and effect of duplicates or copies thereof.

In cooperation with the head of each State agency and the governing body of each county, municipality, and other subdivision of government, the Department of Natural and Cultural Resources shall establish and maintain a program for the selection and preservation of public records considered essential to the operation of government and to the protection of the rights and interests of persons, and, within the limitations of funds available for the purpose, shall make or cause to be made preservation duplicates or designate as preservation duplicates existing copies of such essential public records. Preservation duplicates shall be durable, accurate, complete and clear, and such duplicates made by a photographic, photostatic, microfilm, micro card, miniature photographic, or other process which accurately reproduces and forms a durable medium for so reproducing the original shall have the same force and effect for all purposes as the original record whether the original record is in existence or not. A transcript, exemplification, or certified copy of such preservation duplicate shall be deemed for all purposes to be a transcript, exemplification, or certified copy of the original record. Such preservation duplicates shall be preserved in the place and manner of safekeeping prescribed by the Department of Natural and Cultural Resources. (1961, c. 1041; 1973, c. 476, s. 48; 2015-241, s. 14.30(s).)

§ 132-9. Access to records.

(a) Any person who is denied access to public records for purposes of inspection and examination, or who is denied copies of public records, may apply to the appropriate division of the General Court of Justice for an order compelling disclosure or copying, and the court shall have jurisdiction to issue such orders if the person has complied with G.S. 7A-38.3E. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

(b) In an action to compel disclosure of public records which have been withheld pursuant to the provisions of G.S. 132-6 concerning public records relating to the proposed expansion or location of particular businesses and industrial projects, the burden shall be on the custodian withholding the records to show that disclosure would frustrate the purpose of attracting that particular business or industrial project.

(c) In any action brought pursuant to this section in which a party successfully compels the disclosure of public records, the court shall allow a party seeking disclosure of public records

who substantially prevails to recover its reasonable attorneys' fees if attributed to those public records. The court may not assess attorneys' fees against the governmental body or governmental unit if the court finds that the governmental body or governmental unit acted in reasonable reliance on any of the following:

(1) A judgment or an order of a court applicable to the governmental unit or governmental body.

(2) The published opinion of an appellate court, an order of the North Carolina Business Court, or a final order of the Trial Division of the General Court of Justice.

(3) A written opinion, decision, or letter of the Attorney General.

Any attorneys' fees assessed against a public agency under this section shall be charged against the operating expenses of the agency; provided, however, that the court may order that all or any portion of any attorneys' fees so assessed be paid personally by any public employee or public official found by the court to have knowingly or intentionally committed, caused, permitted, suborned, or participated in a violation of this Article. No order against any public employee or public official shall issue in any case where the public employee or public official seeks the advice of an attorney and such advice is followed.

(d) If the court determines that an action brought pursuant to this section was filed in bad faith or was frivolous, the court shall assess a reasonable attorney's fee against the person or persons instituting the action and award it to the public agency as part of the costs.

(e) Notwithstanding subsection (c) of this section, the court may not assess attorneys' fees against a public hospital created under Article 2 of Chapter 131E of the General Statutes if the court finds that the action was brought by or on behalf of a competing health care provider for obtaining information to be used to gain a competitive advantage. (1935, c. 265, s. 9; 1975, c. 787, s. 3; 1987, c. 835, s. 2; 1995, c. 388, s. 4; 2005-332, s. 2; 2010-169, s. 21(c).)

§ 132-10. Qualified exception for geographical information systems.

Geographical information systems databases and data files developed and operated by counties and cities are public records within the meaning of this Chapter. The county or city shall provide public access to such systems by public access terminals or other output devices. Upon request, the county or city shall furnish copies, in documentary or electronic form, to anyone requesting them at reasonable cost. As a condition of furnishing an electronic copy, whether on magnetic tape, magnetic disk, compact disk, or photo-optical device, a county or city may require that the person obtaining the copy agree in writing that the copy will not be resold or otherwise used for trade or commercial purposes. For purposes of this section, publication or broadcast by the news media, real estate trade associations, or Multiple Listing Services operated by real estate trade associations shall not constitute a resale or use of the data for trade or commercial purposes and use of information without resale by a licensed professional in the course of practicing the professional's profession shall not constitute use for a commercial purpose. For purposes of this section, resale at cost by a real estate trade association or Multiple Listing Services operated by a real estate trade association shall not constitute a resale or use of the data for trade or commercial purposes. (1995, c. 388, s. 5; 1997-193, s. 1.)

§ 132-11. Time limitation on confidentiality of records.

(a) Notwithstanding any other provision of law, all restrictions on access to public records shall expire 100 years after the creation of the record.

(b) Subsection (a) of this section shall apply to any public record in existence at the time of, or created after, August 18, 2015.

(c) No provision of this section shall be construed to authorize or require the opening of any record that meets any of the following criteria:

(1) Is ordered to be sealed by any state or federal court, except as provided by that court.

(2) Is prohibited from being disclosed under federal law, rule, or regulation.

(3) Contains federal Social Security numbers.

(4) Is a juvenile, probationer, parolee, post-releasee, or prison inmate record, including medical and mental health records.

(5) Contains detailed plans and drawings of public buildings and infrastructure facilities.

(d) For purposes of this section, the custodian of the record shall be the Department of Natural and Cultural Resources or other agency in actual possession of the record. (2015-218, s. 3; 2015-241, s. 14.30(c).)

Carrboro Police Department

Subject: Subject: Body Worn Camera		Chapter: 19
Issued: xx/xx/xx	Revised: N/A	Page 1 of 12

I. Purpose

In furtherance of the police department's goals of transparency and accountability, this policy establishes guidelines for the use, management, storage, and retrieval of audio-visual media recordings from Body Worn Camera Recording systems. Nothing in this policy is intended to authorize unlawful surveillance of any person or infringement of legally protected personal privacy, or to supplant or supersede any applicable State or Federal Laws.

II. Definitions

A. Body Worn Camera (BWC): An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.

B. BWC Operator: An officer who has been issued and trained in the operation of mobile digital recording devices installed on the body and the departmental policy regarding such.

C. Manual Activation: When the Body Worn Camera (BWC) is manually activated to record.

D. Recording Media: Material used to store data, including but not limited to DVD's, CD's and Digital Memory Cards.

E. Records Management System (RMS): Computer based system for entering, storing, and searching records of the police department.

F. Video Management Software: Software that manages the access, downloading,

viewing, and copying of audio and video recordings and prohibits modification or manipulation of the original file.

G. Records of Criminal Investigations: Records of criminal investigations conducted by public law enforcement agencies, records of criminal intelligence information compiled by public law enforcement agencies, and records of investigations conducted by the North Carolina Innocence Inquiry Commission, are not public records as defined by G.S. 132-1. Records of criminal investigations conducted by public law enforcement agencies or records of criminal intelligence information may be released by order of a court of competent jurisdiction. See NCGS 132-1.4.

H. Records of Criminal Intelligence: Records or information that pertains to a person or group of persons that are compiled by a public law enforcement agency in an effort to anticipate, prevent, or monitor possible violations of the law.

I. Incident Classification: Term used to signify the various categories and subsequent retention periods an authorized user can use to classify an event that has been, including but not limited to: Traffic Crash, DWI, K-9 Search, Pursuit, Traffic Stop, Transport, and Use of Force.

J. Checking Station: A systematic way of stopping and surveying vehicles to check for compliance with NC driver's license laws.

K. System Administrator: The Chief of Police's designee(s) that is responsible for retrieving and downloading video recordings, and acts as liaison to the Town IT Department.

L. Tactical Operation: Activities outside the usual law enforcement response. Examples include but are not limited to: search warrant service, active shooter response, high risk warrant service, use of Critical Incident Unit, etc.

M. Original Format: The original medium that digital evidence is stored on once it is downloaded from the BWC; specifically, the Carrboro Police Department's digital evidence server.

N. Disclosure: To make the recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. Recordings under disclosure shall not be copied or recorded by the viewer.

O. Release: To provide a copy of a recording.

III. Procedures

A. General procedures:

1. Officers shall not utilize or deploy non-departmental issued BWCs except with express prior authorization.

2. Officers shall adhere to the procedures listed below when utilizing BWC equipment.

3. Prior to and throughout each shift, officers will ensure that all components of their BWC equipment are working satisfactorily and will immediately bring any problems to the attention of a supervisor. The officer will also notify the Quartermaster of any malfunctions.

4. The Field Training Officer will be responsible for the training of new officers on all mobile digital audio/video recording devices.

5. The Quartermaster will be notified by the Patrol Supervisor if a BWC is damaged or malfunctioning. The Quartermaster will arrange to have a spare BWC issued to the officer, if available.

B. BWC equipment activation:

1. All officers issued a BWC will wear the camera on the outside of their uniform in such a manner that optimal video and audio is achieved. Optimal shall be defined as to show the best vantage point of the recorded interaction.

2. Once recording starts, it must continue until the incident is completed. If for some reason recording must be stopped, the officer must verbally indicate the reason on the recording before the recording is stopped This reason shall also be documented in the written report if a report is needed.

3. Officers shall give notice as soon as reasonably possible that the BWC is in operation. The timing of notice may vary depending on the context of the encounter. The requirement to give notice may be waived under exigent or other legitimate law enforcement circumstances. If an officer is asked whether the interaction is being recorded, the officer is expected to be truthful unless the nature of the law enforcement activity requires a different answer, e.g., an undercover operation.

C. An officer shall turn on the BWC under the following circumstances unless the

situation at hand prevents activation. If the officer does not activate the BWC during one of these situations, the fact that the BWC was not activated must be documented. **Any officer who intentionally or repeatedly neglects to activate the BWC consistent with this section may be subject to disciplinary action up to, and including, termination.**

1. All traffic stops before the officer(s) exits the vehicle.
2. During Traffic Checkpoints, the BWC will be activated prior to initial contact of the first vehicle during the checkpoint and remain on during the operation. If there is a lull in traffic, the BWC can be turned off but must be reactivated prior to the initial contact of the next vehicle.
3. K-9 Vehicle Searches and any other K9 utilization that may involve tracking or involvement with a suspect.
4. Vehicle Searches.
5. Vehicle pursuits, as soon as practical, but no later than when the officer exits the vehicle.
6. Foot Pursuits.
7. All stops of a person based on reasonable suspicion, i.e. “Terry” Stops.
8. During any tactical operations, including activation of the department Critical Incident Unit. The BWC will be activated for pre-planned events when there is sufficient time to develop a written plan of action. During unplanned and spontaneous tactical operations, a BWC should be used when practical and time and circumstances permit.
9. Any calls for service when a possible suspect is on scene.
10. When two parties are reported to be involved in a dispute.
11. Any interaction with a person known to the officer to have a history of being confrontational and/or violent.
12. When contact with an individual becomes adversarial after the initial contact in a situation that would not otherwise require recording.
13. Record the actions and/or statements of suspects if the recording may prove useful in the later judicial proceedings. Examples include but are not limited to: field interviews, sobriety performance tests, and confiscation or

documentation of evidence.

14. Any situation or incident that the officer, in the exercise of professional judgment based on training and experience, believes should be audibly and visually recorded. If an officer is unsure if activation is required the default should be to activate the BWC.

15. At the request of the victim of a crime of a sensitive nature, such as a sexual assault or a sexual act involving a minor, an officer may deactivate the camera for the duration of the interview of that victim only.

D. School Resource Officer:

The application of this policy to minors on the premises of the Chapel Hill-Carrboro City Schools during business hours shall be subject to the terms and conditions specified in a Memorandum of Understanding between the Town of Carrboro and the Chapel Hill-Carrboro City Schools.

E. Recording in areas with reasonable expectation of privacy:

1. The use of the BWC when entering private property requires a balance between privacy rights and the need for the government intrusion into the space. When practicable, officers shall notify people that they are being recorded as soon as reasonably possible consistent with section III.B.3 of this policy. Prior to stopping the recording, the officer must state on the recording the reason for stopping the recording. If the incident is one that requires a report, the reason for stopping the BWC will be included in the written report.

2. If an officer is responding to a possible crime or disturbance in progress, the BWC will be activated. If a determination is made that the crime is belated or no longer meets the criteria for recording, the BWC may be deactivated once the situation no longer needs to be recorded. The officer will verbally state the reason for BWC recording cessation on the recording and indicate such in the report of the incident if a report is needed.

F. If an officer is responding to a belated or general call for service that would not normally be recorded, the BWC does not need to be activated unless the situation changes to one in which recording is allowed.

G. Cessation of recordings:

Once activated, the BWC should remain on until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations. If an arrestee is placed in a vehicle with a recording MVR, the BWC may be turned off.

H. Recording not required:

1. Activation of the BWC system is not required when exchanging information with other officers or during breaks, lunch breaks, or when not in service.

I. Recording Not allowed

1. Officers shall not record encounters with undercover officers or confidential informants.

2. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room, unless the situation meets criteria in section III, C.

J. Surreptitious and unauthorized recording:

1. No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when authorized by the Chief of Police or the Chief's authorized designee for conducting a criminal or administrative investigation.

2. No member of this department shall surreptitiously record members of the public that an officer is not directly interacting with (e.g. an officer providing logistical support at a political rally shall not utilize his or her BWC to record individuals at the rally). This does not apply when the actions of the public turn criminal in nature or to an officer working in undercover capacity.

3. No member of this department shall use a BWC unlawfully to gather with the intention or purpose of gathering intelligence information based on First Amendment–protected speech, associations, or religion

K. BWC operators shall document the use of BWC equipment in the appropriate RMS report.

IV. Supervisor Responsibilities

A. When an incident occurs that requires the immediate downloading or retrieval of the recorded media (e.g., serious crime scenes, departmental shootings, departmental traffic crashes), a supervisor shall respond to the scene, determine if an immediate download is needed, and ensure that the video footage is downloaded as soon as possible.

B. When an officer reports a malfunction of BWC equipment to a supervisor, the supervisor will, as soon as is practicable, seek a replacement unit if available and shall ensure that authorized personnel make repairs in a timely manner. If no BWC is available for the officer to use, the officer shall indicate in written reports that no BWC was available at the time of incident.

C. Supervisors shall conduct quarterly reviews of officers' recordings in order to:

1. Assess officer performance;
2. Assure proper functioning of BWC equipment;
3. Determine if BWC equipment is being operated properly; and
4. Identify recordings that may be appropriate for training. If this footage involves a personnel action according to G.S.160A-168, written permission from the officer(s) involved must be received.

D. Supervisors shall conduct twice-a week reviews of personnel who are newly assigned BWC equipment in order to ensure compliance with departmental policy. These reviews shall last 30 days. Supervisors shall thereafter conduct quarterly reviews of randomly selected video recorded by their officers.

E. Minor violations of department policy (not criminal in nature) committed by any member of the Carrboro Police Department and discovered during routine review of recorded material should be viewed as training opportunities; however, depending on the severity of the infraction, the supervisor may take disciplinary

actions. Should the behavior or action become habitual after being addressed, the appropriate level of disciplinary action will be taken to correct the behavior.

Deliberate or unauthorized deletion of recorded media or damage to recording equipment shall result in disciplinary actions up to, and including, termination.

V. Management of Recordings

A. All recordings on the BWC must be downloaded prior to the end of the officers' tour of duty. Supervisors shall notify administrators of any incidents of unusual importance in a timely manner.

B. Officers shall not attempt to erase, alter or tamper with BWC recordings.

Deliberate or unauthorized deletion of recorded media or damage to recording equipment shall result in disciplinary actions up to, and including, termination.

C. BWC upload procedure:

1. BWC video will be uploaded by directly connecting the BWC to a docking station or USB cable to facilitate upload in to the video management system.

2. Videos will be correctly classified once uploaded to the video management system.

D. Deletion of Recordings:

No officer shall delete recordings. All recordings will be maintained according to section VI. Retention of Recordings.

VI. Retention of Recordings

A. Officers shall classify all videos recorded in the appropriate category noted in the system once recording and upload is completed. **Any officer, who intentionally or repeatedly misclassifies a video recording in an effort to avoid disciplinary action or criminal investigation, is subject to disciplinary actions up to, and including, termination.**

B. If a recording can be classified into multiple categories, the officer shall choose the category with the longest retention schedule.

C. Recordings that are evidentiary in nature will be retained in conformance with the Department of Cultural Resources Retention Schedule adopted by the Town of Carrboro and any statutory requirements.

D. The retention period for the video will be set based on the following criteria:

Retention Schedule

Type of Incident	Retention Days
Equipment Check/Accidental Activation	30 Days
Criminal Intelligence/Criminal Investigations	90 Days
Hold for training purposes	90 Days
General Calls for Service	90 Days
Traffic Stop to include K9 or other vehicle search	180 Days
DWI	720 Days
Custodial Arrest	1460 Days
Vehicle or Foot Pursuits	180 Days
Hold for internal review/complaint	180 Days
Any use of force	1460 Days

E. Retention period can be lengthened based on State and Federal evidentiary purposes and §1983 concerns.

F. Legal classifications:

All recording media, images, and audio are property of the Carrboro Police Department (CPD) and will not be copied, released, or disseminated in any form or manner outside the parameters of this policy or state law. Under no circumstances will any member of the CPD make a personal copy of any recorded

event. Officers may request a copy of a recording for use in professional training with the written approval from the Chief of Police and in accordance to state law. This policy and state law shall act as express permission by the Chief of Police for a copy of any recorded event related to a criminal case to be released to the Orange County District Attorney's Office or any other District Attorney's Office having jurisdiction in a recorded criminal matter. Recordings made with this equipment are not public records.

VII. Internal Review of Recordings

A. To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed, or otherwise inserted into any device not approved by the Chief of Police or his designee. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

B. Recordings may be reviewed in any of the following situations:

1. For use when officers are preparing reports or statements.

2. By a supervisor or other designated officer investigating a specific act of officer conduct related to an official investigation such as a personnel complaint, administrative inquiry, or a criminal investigation.

3. By a supervisor to assess a subordinate officer's performance.

4. By an officer who is captured on, or referenced in, the video or audio data and reviews and uses such data for any purpose relating to his/her employment unless such material is part of an internal investigation.

5. Recordings may be shown for officer training and development purposes. If the recording is part of a personnel matter, a written waiver from the officer(s) involved must be obtained prior to release of video for training and development purposes.

C. Employees desiring to view any previously uploaded or archived recordings other than their own should submit a request in writing (email is appropriate) to the shift supervisor and then forwarded to the System Administrator for processing.

D. No recording may be used or shown for the purpose of ridiculing or embarrassing any employee or member of the public.

E. Any video that is evidence in an active internal investigation will only be viewed by the appropriate employees as determined by the Chief and will not be available for training purposes until after completion of said investigation and upon receipt of written authorization from the involved employee(s).

F. All recordings are subject to be erased after the designated retention period unless a longer retention period has been identified for court or investigative purposes.

G. An officer, by way of their supervisor, may request a copy of a video or to extend the retention period for court purposes. This request will be in writing from the supervisor (can be through e-mail) to the System Administrator. Any supervisor can request a copy of a video or for the retention period to be extended for evidentiary purposes, internal investigation, or for training purposes. If this footage involves a personnel action according to G.S.160A-168, written permission from the officer(s) involved must be received prior to release.

H. Recordings of an evidentiary or criminal nature will only be released to attorneys pursuant to the procedures established in 132-1.4 A. upon the presentation of a valid order issued by a court of competent jurisdiction.

I. Officers who need recordings duplicated for court must make the request at least five business days prior to the court date. Exceptions to this requirement will be handled on a case-by-case basis.

J. If at any time the video management system is linked to any external database or other records management system not substantially under the control of the Town, the department will discontinue the use of BWCs until the Board or Alderman reauthorizes their use.

VIII. Disclosure or Release of Recordings

A. Disclosure or releases of recordings will be governed by the procedures outlined in NCGS 132-1.4 A. It is the policy of the Town of Carrboro that the police department will have a strong presumption in favor of disclosure.

B. Any person requesting disclosure of a recording must complete the department disclosure form to initiate the disclosure process.

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