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5 **ORDINANCE NUMBER 2024-3**
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7 **AN ORDINANCE OF LEVY COUNTY, FLORIDA,**
8 **AMENDING THE CODE OF ORDINANCES OF LEVY**
9 **COUNTY, FLORIDA RELATED TO PUBLIC RECORDS; BY**
10 **CREATING A NEW ARTICLE IN CHAPTER 2 -**
11 **ADMINISTRATION TITLED “PUBLIC RECORDS”;**
12 **AMENDING APPENDIX B TO ESTABLISH FEES, RATES**
13 **AND CHARGES FOR PUBLIC RECORDS REQUESTS;**
14 **PROVIDING A SEVERABILITY CLAUSE; PROVIDING A**
15 **REPEALING CLAUSE; PROVIDING FOR INCLUSION IN**
16 **THE CODE; PROVIDING DIRECTIONS TO THE CLERK**
17 **AND AN EFFECTIVE DATE.**
18

19 **WHEREAS**, Article I, Section 24, of the Florida Constitution and Chapter 119,
20 Florida Statutes, create both a constitutional and statutory right of access to records
21 made or received in connection with official County business and, likewise, impose
22 responsibilities on County officials to retain and provide those records upon request;
23

24 **WHEREAS**, pursuant to the foregoing authority, this public records policy is
25 adopted to establish consistent standards and fees to govern the County’s responses to
26 public records requests and requirements for retention of public records; and
27

28 **WHEREAS**, at least ten (10) days’ notice has been given once by publication in a
29 newspaper of general circulation notifying the public of this proposed ordinance and of a
30 public hearing in the Levy County Government Center in Bronson, Florida.
31

32 **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners,
33 of Levy County, Florida, that:
34

35 **SECTION 1.** A new Article IX titled “Public Records” is created within Chapter 2 to read
36 as follows.
37

38 **Chapter 2 – ADMINISTRATION**
39 **ARTICLE IX. PUBLIC RECORDS**
40

41 **Sec. 2-350. – Short title; authority; purpose; scope; procedures.**
42

43 This article shall be known and cited as the Levy County Public Records Policy. This
44 policy is adopted pursuant to the authority granted by Article I, Section 24, of the Florida

Note: deletions shown ~~stricken~~, additions shown underlined

1 Constitution and F.S. Chapter 119. The county recognizes that state law requires the
2 county to promptly acknowledge and respond to public records requests in good faith
3 and within a reasonable time, without automatic, unjustified or arbitrary delay.
4

5 This policy is adopted for the purpose of informing the public of their right to request
6 public records from the county, establishing a clear and transparent process and fees
7 for public records requests, and providing summary guidance to county officials
8 regarding their obligation to comply with public records law, including records retention.
9 County officials are encouraged to consult with the public records manager and/or the
10 county attorney anytime they have questions about this policy or public records in
11 general.
12

13 The public records manager is authorized to establish written procedures and forms as
14 needed to implement and administer this policy. All procedures must be consistent, and
15 not in conflict, with the provisions of this policy and applicable state and federal law.
16 The human resources department is authorized to update county personnel policies and
17 procedures, as needed, to include or reference relevant portions of this policy or
18 procedures.
19

20 **Sec. 2-351. – Definitions.** The following words have the meanings set forth below
21 whenever they appear in this article, unless the context clearly indicates otherwise:
22

23 *County official* means any person elected or appointed to serve on the county
24 commission, any person appointed by the county commission to serve on a county board
25 or committee, or any person employed by the county commission. It does not include
26 any person(s) elected, appointed or employed by or through the county constitutional
27 officers or the county school district.
28

29 *Exemption* means a provision in Florida statutes that specifically exempts a public record,
30 or portion thereof, from public disclosure. If a public record is “confidential and exempt”
31 the county is prohibited from releasing the public record, except to those persons/entities
32 identified in statute. If a public record is “exempt,” the county may choose to disclose the
33 record, but after doing so it can no longer claim the public record is exempt.
34

35 *Portal* means the software system that is accessible to the public via the county’s website
36 and is used by the county to track and manage public records requests.
37

38 *Public record(s)* means all documents, papers, letters, maps, books, tapes, photographs,
39 films, sound recordings, data processing software, or other materials, regardless of the
40 physical form, characteristics, or means of transmission, made or received pursuant to
41 law or ordinance or in connection with the transaction of official business by the county.
42 This includes any material that perpetuates, communicates, or formalizes knowledge of
43 some type regarding county matters.
44

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1 Public records manager means the county public information officer or other county
2 employee designated by the county commission to manage the portal, to serve as the
3 central custodian of public records for purposes of compliance with F.S. Section 119.0701
4 and to serve as the records management officer between the county and the State
5 Division of Library and Information Services.

6
7 Public records request means a verbal or written request made by any person to any
8 county official to inspect or receive a copy of any existing county public record(s).
9 Requests for county officials to create new records, to answer questions, or to put existing
10 records into a different format are not public records requests.

11
12 Redact means to conceal the portion of a public record that contains an exemption.
13 Requester means any person who makes a public records request.

14
15 Special service charge means the reasonable charge, set forth in section 5 of appendix
16 b of the code, that is based on the cost actually incurred by the county in responding to a
17 public records request that requires the extensive use of personnel or information
18 technology resources. The county has determined that extensive means the request will
19 take more than 15 minutes of total county time to fulfill and/or it involves more than 10
20 pages of copies.

21
22 **Sec. 2-352.- Submitting a public records request.**

23
24 All persons are encouraged to submit their public records requests directly through the
25 portal. Requests received by other means (such as in-person or by email) will be input
26 into the portal by a county official.

27
28 **Sec. 2-353.- Responding to a public records request.**

29
30 (a) Portal entry; assignment by public records manager. Any county official who
31 receives a public records request must promptly input the request into the portal.
32 The public records manager will review the public records request to determine
33 the scope of the request (e.g., timeframe, subject matter, type of records and
34 copies or in person inspection) and communicate with the requester if
35 clarification is needed. The public records manager will assign the public records
36 request to the county official(s) who are anticipated to have custody of the
37 requested public records.

38
39 (b) Initial review; initial cost estimate. Within 5 business days, each assigned county
40 official must review the request and conduct a preliminary search for responsive
41 records. Responsive records are those that exist and are within the scope of the
42 request. The public records law does not require county officials to create new
43 records, to answer questions, or to put existing records into a different format.
44 Based on the nature and volume of the responsive records, the county official

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1 must prepare and input a cost estimate into the portal. The cost estimate must
2 be based on the fees, rates and charges set forth in section 5 of appendix b in
3 this code.

4
5 (c) Providing cost estimate to the requester; deposit; refund. The public records
6 manager will review all cost estimate(s) for a public records request. If it will take
7 15 minutes or less of total county time and 10 pages or less of copies, the public
8 records request will be fulfilled free of charge and the public records manager will
9 direct the county official(s) to gather, review and redact, and upload the
10 requested records to the portal.

11
12 If it will take more than 15 minutes of total county time to fulfill the public records
13 request or it involves more than 10 pages of copies, a special service charge and
14 copy fees must be paid. The public records manager will provide a written cost
15 estimate to the requester and may require the requester to pay an advance
16 deposit to the county. The county will fulfill the request up to the deposit paid.
17 The requester may be required to pay a second advance deposit for the
18 remainder of the request. If any deposit paid exceeds the actual cost, the county
19 will refund the excess to the requester.

20
21 If the county provides a cost estimate to a requester and no response or payment
22 is received within 30 calendar days, the public records manager will close the
23 request.

24
25 (d) Review for exemptions; redaction. Prior to releasing a public record, a county
26 official must review the record to determine any applicable exemption(s). A
27 useful guide for determining exemptions is the Government-In-The-Sunshine
28 Manual prepared by and available on the website of the Florida Office of the
29 Attorney General. If a county official determines that an exemption applies, they
30 must redact the exempt portion and note the particular exemption. If a record is
31 entirely exempt, the county official should respond by identifying the record and
32 noting the particular exemption. Any questions regarding exemptions should be
33 directed to the public records manager and/or the county attorney.

34
35 (e) Delivery of requested public records. Unless other arrangements are made in
36 advance with the public records manager, after appropriate redaction, all
37 requested public records will be uploaded to the portal and a notification will be
38 sent to the requester.

39
40 **Sec. 2-354.- Retention of county public records.**

41
42 (a) Each county official is the custodian of public records under their supervision and
43 control, such as those located in their office files or e-mail account. Each county
44 official is required to retain public records within their custody in accordance with

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1 the records retention schedules for State and Local Government Agencies
2 established by and available on the website of the Florida Department of State.

3 (b) County officials perform county functions through the use of numerous electronic
4 devices and systems, such as social media or mobile phones used to access
5 county e-mail, send and receive text messages, access the internet, and receive
6 voicemail. To facilitate compliance with State public records law and this policy,
7 public records should be retained in county owned and maintained systems and
8 devices.

9 (c) If a county official receives a public record on their personal system or device, they
10 should promptly forward that public record to a county system or device. County
11 officials should refrain from: (1) conducting county business on their personal
12 phones or personal computers other than through the use of a TeamViewer (or
13 other authorized) connection to the county's network or county email; (2)
14 downloading county public records onto their personal computers or other personal
15 electronic devices or systems; and (3) using personal e-mail or social media
16 accounts to conduct county business.

17
18 **Sec. 2-355.- Disposition of public records.**

19
20 The county has a duty to ensure that public records are disposed of in compliance with
21 F.S. §119.021(2) and Rule 1B-24, FAC. Any county official in possession of public
22 records that are no longer required to be retained must consult with their supervisor
23 and/or the public records manager for a review and instructions concerning appropriate
24 disposition. A records disposition form shall be completed for all public records that are
25 scheduled for disposition. The completed, signed form must be submitted to the public
26 records manager no later than 5 business days after disposition.

27
28 **Sec. 2-356.- Transfer of public records at end of county employment or office.**

29
30 When a county official leaves office or employment, whether at the end of their term of
31 office, or by resignation, retirement or termination, all public records must be left for their
32 successor, their supervisor or provided to the board of county commissioners office.

33
34 **Sec. 2-357.- Public records training.**

35
36 All county officials who maintain custody of public records in the course of their duties
37 must attend annual public records training. The public records manager, with
38 assistance from the county attorney, is responsible for implementation of this training
39 requirement.

40
41 **Sec. 2-358. - Non-compliance with public records policy.**

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1 Failure to comply with this policy may result in disciplinary action and possibly
 2 termination of employment. In addition, pursuant to F.S. §119.10, violations of Florida
 3 public records law are punishable by fine not exceeding \$500, and willful and knowing
 4 violations are subject to additional criminal penalties.

5
 6
 7 **SECTION 2.** A new Sec. 5 titled “Public records requests” is created within Appendix B
 8 -“Schedule of Fees, Rates and Charges” to read as follows.

9
 10 **APPENDIX B – SCHEDULE OF FEES, RATES AND CHARGES**
 11 **Sec. 5. – Public records requests**
 12

<u>1. Copies</u>	
<u>Copies 14 x 8 ½ inches in size or less</u>	<u>\$.15 per page (single sided) or \$.20 per page (double sided)</u>
<u>Certify a copy of a public record</u>	<u>\$1.00 to certify the copy</u>
<u>All other copies (e.g., maps or plats)</u>	<u>Actual cost of duplication (which means the cost of the material and supplies used to duplicate the public records, not labor and overhead.)</u>
<u>2. Special Service Charge</u>	
<u>A special service charge shall be computed for the labor cost of each county official responding to the request</u>	<u>The charge is computed as follows: (current hourly gross rate of pay of the official) plus (hourly rate for fringe benefits based on an annual average rate for county employees) multiplied by (the number of hours or percentage thereof using .25 for 15 minutes, .50 for 30 minutes and .75 for 45 minutes that official spent on the request)</u>

13
 14 **SECTION 3. Severability.** If any section, subsection, sentence, clause, phrase, portion
 15 or provision of this ordinance is for any reason declared or held invalid or
 16 unconstitutional by any court of competent jurisdiction, such section, subsection,
 17 sentence, clause, phrase, portion or provision shall be deemed a separate, distinct and
 18 independent provision, and the remainder of this ordinance shall be not affected by
 19 such declaration or holding.
 20

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1 **SECTION 4. Repeal.** All ordinances or parts of ordinances and all resolutions or parts
2 of resolutions of Levy County that are in conflict with this ordinance are, to the extent of
3 the conflict, hereby repealed.

4
5 **SECTION 5. Inclusion in the Code.** The provisions of Sections 1 and 2 of this
6 ordinance shall become and be made a part of the Levy County Code, and the sections
7 of this ordinance may be renumbered or relettered and the word “ordinance” may be
8 changed to “section,” “article,” “regulation,” or such other appropriate word or phrase in
9 order to accomplish the codification.

10
11 **SECTION 6. Effective Date.** In accordance with Section 125.66, Florida Statutes, the
12 Clerk to the Board of County Commissioners is directed to file this ordinance with the
13 Florida Department of State within 10 days after adoption and upon such filing, this
14 ordinance shall become effective.

15
16 **PASSED AND DULY ADOPTED** on August 6, 2024.

17
18
19 **BOARD OF COUNTY COMMISSIONERS**
20 **OF LEVY COUNTY, FLORIDA**

21
22
23 _____
24 Desiree Mills, Chair

25 ATTEST: Danny J. Shipp, Clerk of
26 the Circuit Court and Ex-officio Clerk to
27 the Board of County Commissioners

28
29 _____
30 Danny J. Shipp, Clerk

31 Approved as to form and legal sufficiency

32
33 _____
34 Nicolle M. Shalley, County Attorney

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