

## **ORDINANCE NO. 2026-12**

### **AN ORDINANCE OF THE TOWN OF PORTER, INDIANA, AMENDING AND RESTATING CHAPTER 2, ARTICLE VII OF THE TOWN CODE REGARDING PUBLIC RECORDS, FEES, COMMERCIAL USE RESTRICTIONS, AND COMPLIANCE WITH HOUSE ENROLLED ACT 1360**

**WHEREAS**, the Town of Porter, Indiana (“Town”), is committed to public transparency, accountability, and maintaining open access to public records in accordance with the Indiana Access to Public Records Act (APRA), Indiana Code § 5-14-3 *et seq.*; and

**WHEREAS**, the Town Council adopted Ordinance No. 2026-06 on April 28, 2026, prohibiting the use of Town public records for commercial purposes pursuant to I.C. § 5-14-3-3(e); and

**WHEREAS**, the Indiana General Assembly enacted House Enrolled Act 1360 (Public Law 97-2026), effective July 1, 2026, modernizing APRA to permit public agencies to establish electronic portals, prioritize resident and civic requests, assess supplemental fees for out-of-state and automated requests, and deny requests posing cybersecurity, data scraping, phishing, or litigation discovery risks; and

**WHEREAS**, Indiana Code § 5-14-3-8(d) requires the fiscal body of a public agency to formally establish a fee schedule for document copying, certification, and supplemental processing fees before such fees may be collected; and

**WHEREAS**, the Town has experienced requests for large volumes of public records that require significant staff time to search, compile, review, redact, and produce, resulting in the expenditure of public resources and the temporary diversion of employees from essential governmental functions; and

**WHEREAS**, the Town Council finds that adopting uniform procedures governing public records requests, fees, prioritization, and electronic access promotes transparency while ensuring that limited municipal resources remain available to provide essential services to residents and businesses; and

**WHEREAS**, the Town Council desires to update Chapter 2, Article VII of the Porter Town Code to consolidate all public records regulations, fees, commercial restrictions, and administrative procedures into a unified, compliant ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PORTER, INDIANA, AS FOLLOWS:**

#### **Section 1. Amendment and Restatement of Code**

Chapter 2, Article VII of the Town Code of the Town of Porter is hereby amended and restated in its entirety to read as follows:

### **CHAPTER 2 - ADMINISTRATION**

#### **ARTICLE VII. PUBLIC RECORDS, CHARGES, AND FEES**

**Sec. 2-223. Public access to documents; records requests; format.**

(a) Except as otherwise provided in this Article or by applicable state or federal law, if a person is entitled to inspect or receive a copy of a town-owned and maintained public record, the Town shall provide access or copies in accordance with I.C. § 5-14-3.

(b) If a public record exists in an electronic format and the requester requests electronic transmission, the Town shall transmit the record electronically if technically capable. The Town shall not charge a reproduction fee for records transmitted electronically to Indiana residents for standard, non-commercial use.

(c) If the Town does not have access to a machine capable of reproducing the record, the requester shall be entitled only to inspect and manually transcribe the record.

(d) Public records requests shall be processed and fulfilled within a reasonable time consistent with the requirements of Indiana Code, the complexity and volume of the request, the need to review or redact records, and the Town's available staffing and operational responsibilities. Nothing in this Section shall be construed to require expedited production unless otherwise required by law.

#### **Sec. 2-224. Commercial use prohibited.**

(a) Pursuant to I.C. § 5-14-3-3(e) and Ordinance No. 2026-06, any individual or entity receiving public records or information pursuant to a request made under I.C. § 5-14-3 shall not use the records or information for commercial purposes.

(b) "Commercial purpose" includes selling, advertising, or soliciting the purchase of merchandise, goods, or services, or selling, loaning, giving away, or otherwise delivering information obtained by the request to any person for these purposes. This prohibition does not apply to the use of such records in connection with the preparation or publication of news, for nonprofit activities, or for academic research.

(c) Any person who uses information contrary to this Section may be prohibited by the Town from obtaining further data or public records pursuant to I.C. § 5-14-3-3(d).

#### **Sec. 2-225. Schedule of fees and charges.**

Pursuant to I.C. § 5-14-3-8, the Town establishes the following schedule of standard fees and charges for public records:

(1) **Inspection and Review:** \$0.00. Pursuant to I.C. § 5-14-3-8(b), no fee shall be charged to inspect a public record or to examine or review a record to determine whether it may be disclosed.

(2) **Standard Paper Copies (Letter and Legal Size):**

- Single-sided (8½" x 11" or 8½" x 14"): \$0.10 per page.
- Double-sided (8½" x 11" or 8½" x 14"): \$0.20 per page.

(3) **Color Paper Copies (Standard Size):** \$0.25 per page.

(4) **Nonstandard-Sized and Oversized Copies:** For 11" x 17" documents, blueprints, maps, engineering drawings, or any public records that cannot reasonably be copied using standard office equipment located within Town offices, the fee shall be equal to the direct actual cost of

reproduction or the commercial rate charged to the Town by an outside commercial copying facility.

(5) **Document Certification:** \$5.00 per certified document.

(6) **Electronic Storage Media (flash drives, external hard drives or other storage devices):** Direct cost of the physical media hardware, defined pursuant to I.C. § 5-14-3-8(g) as 105% of the actual cost of the physical hardware supplied by the Town.

The Town may require payment of estimated copying charges, certification fees, media costs, or any other fees authorized by this Article before copies of public records are produced or release, as permitted by Indiana law.

#### **Sec. 2-226. Supplemental fees for out-of-state and automated requests.**

Pursuant to I.C. § 5-14-3-8(n), the Town shall collect a supplemental processing fee for responding to public records requests submitted by non-Indiana residents, out-of-state entities, or automated systems:

(1) **Staff Labor Fee:** Twenty-five dollars (\$25.00) per hour for staff labor time expended in searching, compiling, reviewing, redacting, or processing the request.

(2) **Supplemental Reproduction Fee:** Twenty-five cents (\$0.25) per page for physical copies.

(3) **Advance Payment Required:** Estimated staff labor and copying costs must be paid in full prior to Town staff commencing record compilation or production.

(4) **Fee Waiver Authority:** Pursuant to I.C. § 5-14-3-8(o), the Clerk-Treasurer may waive or reduce supplemental fees if they determine that fulfilling the request primarily benefits the general public or serves a significant public interest.

#### **Sec. 2-227. Request prioritization and electronic portals.**

(a) Pursuant to I.C. § 5-14-3-3.3, the Town may establish an electronic public records portal that incorporates CAPTCHA, physical address verification, residency checks, and automated tracking tools.

(b) Pursuant to I.C. § 5-14-3-8.1, the Town may prioritize the processing and fulfillment of public records requests submitted by Indiana residents and requests submitted for civic, philanthropic, journalistic, academic, or personal use.

(c) Out-of-state requests, commercial requests, and automated submissions may be deprioritized or delayed as necessary to prevent disruption of core municipal functions and staff duties. Requesters shall complete the Town's official Public Records Request Form declaring their residency, entity status, and intended purpose.

(d) The establishment of priority categories under this Section does not create entitlement to expedited production of records but establishes the order in which requests may be processed consistent with Indiana law and the Town's operational needs.

#### **Sec. 2-228. Authority to deny certain requests.**

In addition to any exemptions from disclosure in accordance with applicable federal, state, and local laws, the Town reserves full statutory authority to deny public records requests under the following circumstances:

(1) **Cybersecurity, Phishing, and Data Scraping:** Pursuant to I.C. § 5-14-3-3.3(b), the Town may deny a request if staff reasonably suspects the request involves data scraping, phishing, or electronic transmissions that may expose Town electronic systems, networks, or data to unauthorized access, alteration, or security risks. Denials under this subsection shall be reported to the Office of the Public Access Counselor (OPAC) within seven (7) days of receipt pursuant to I.C. § 5-14-3-3.3(c).

(2) **Pending Litigation Discovery:** Pursuant to I.C. § 5-14-3-4(e), the Town may deny a request if it is made by a party to pending or ongoing litigation involving the Town and the request is duplicative of a discovery request made in that litigation.

#### **Sec. 2-229. Mandatory state reporting.**

The Clerk-Treasurer or designated administrative staff shall report suspected automated, data scraping, or phishing requests (whether denied or fulfilled) and submit annual summary reports to OPAC in accordance with I.C. § 5-14-3-11 and I.C. § 5-14-4-10.

#### **Sec. 2-230. Town officials exempt.**

Elected and appointed officials of the Town are excluded from fee requirements for documents requested and required in the normal exercise of their official duties or office.

#### **Sec. 2-231. Compliance with state law.**

Nothing contained in this Article is intended to, nor shall any part of this Article be construed as, expanding, reducing, modifying, or changing any state law regarding access to public documents. The sole and exclusive purpose of this Article is to establish a uniform, reasonable schedule of fees and administrative procedures associated with access to Town public records in accordance with Indiana Code.

#### **Sec. 2-232. Administrative Procedures.**

The Clerk-Treasurer is authorized to develop and implement administrative forms, procedures, electronic request portals, identity verification requirements, payment procedures, and other administrative practices necessary to carry out and administer this Article, provided such procedures are consistent with this Article and applicable Indiana law. The Clerk-Treasurer may revise such administrative procedures from time to time without further amendment to this Code, provided no such revision conflicts with state law or this Article.

#### **Secs. 2-233—2-245. Reserved.**

**Section 2. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

**Section 3. Conflicting Ordinances.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 4. Effective Date.** This ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

**PASSED AND ADOPTED** by the Town Council of the Town of Porter, Indiana, on this 25<sup>th</sup> day of August, 2026.

**PORTER TOWN COUNCIL**

/s/ William Lopez, President

/s/ Kelly Karriman, Vice President

/s/ James Burge

/s/ Don Craft

/s/ Laura Madigan

**ATTEST:**

/s/ Corinne M. Peffers, Clerk-Treasurer