

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

RESOLUTION NO. 09-17

WHEREAS, Newberry County Council determines that it is both necessary and appropriate to set forth guidelines and policies for County officials and employees to use in responding to requests for information under the South Carolina Freedom of Information Act, and to expand on the policies expressed or implied in Section 31.43 of the Newberry County Code of Ordinances.

NOW, THEREFORE, BE IT RESOLVED that the following policies and guidelines shall be followed by members of Newberry County Council, by board and commission members appointed by Newberry County Council, and by the Newberry County Administrator and those employees and officials under his direction and control, and these policies are recommended for adoption and use by the county-wide elected officials and those officials appointed by the Governor or other outside agency:

FREEDOM OF INFORMATION (FOIA) POLICY

NEWBERRY COUNTY, SC

1. The South Carolina Freedom of Information Act, §30-4-10 of the South Carolina Code of Laws, 1976, as amended, (hereinafter, "FOIA" or "Act") is designed to allow easy access to the public for the inspection and copying of public records, as well as openness to the public in the deliberations of public bodies. In keeping with this, the Clerk to Council is designated as the staff member, or FOIA Officer, to be familiar with and to assist in the processing of FOIA requests. The Clerk to Council will consult with the County Attorney on non-routine FOIA requests, and on any questions of law concerning the Act.
2. Newberry County Council has adopted Section 31.43 of the Newberry County Code of Ordinances, which adopts each exemption from disclosure set forth in the FOIA, and sets forth the basic policy of the County in responding to requests for information under the FOIA.
3. The Policy in the Resolution, (hereafter this "Policy") is applicable to all departments under the supervision of the County Administrator, and to any board or commission whose members are appointed by County Council. Elected officials, gubernatorial appointees, and boards and commissions independent of County Council are not required to adhere to this Policy, but are strongly encouraged to adopt this or some other similar suitable FOIA policy, and to make any such similar policies a matter of public record.
4. Requests for information in the care and custody of a county-wide elected official shall be directed to that official for a response, and the person making the request shall be notified that the elected official is solely responsible for responding.

5. Except in cases where the Act requires that information be readily available to the public at all times, citizens appearing in person and requesting information under FOIA (hereinafter “requestors”) must be provided at no charge a Freedom of Information Act Request Form, which shall be incorporated herein by reference as part of this Resolution. The use of this form is encouraged, though not required, as a condition of requesting information from Newberry County. Requests made in writing and transmitted by mail, facsimile, email, or fax, or delivered in person, must be date-stamped upon receipt. Under the Act, responses to such requests are due within ten (10) working days from the date the FOIA request is received unless the record requested is more than twenty-four months old then the response period shall not exceed twenty (20) days. Compliance with the term “due” means that the response has been made when it is deposited into a U.S. Postal Service receptacle properly addressed with sufficient postage affixed, or upon transmission by fax or e-mail in a proper case, such as when the requestor has asked for a response in that manner, and such a response can be made without difficulty. If the request is granted, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the final determination was provided, unless the records are more than twenty-four months old, in which case the County has no later than thirty-five calendar days from the date on which the final determination was provided. If you require the assistance of the Clerk to Council in processing and responding to the request, please forward the original request to the Clerk to Council immediately, retaining a copy of the request for your records.

6. Certain departments are required to make information immediately available for any “in person” requestor. A written request is neither needed nor should it be requested for the following:
 - a. Minutes of the meeting of a public body (such as County Council, Planning Commission, Board of Zoning Appeals, etc.) for the preceding six (6) months.
 - b. Law enforcement records for the last fourteen (14) days (except for information exempt as otherwise provided by law, which may be deleted from the report).
 - c. Jail/detention center records for confined persons for the last three (3) months (except juvenile records, which are exempt).
 - d. All documents produced by the County that were distributed to or reviewed by a member of the County during a public meeting for the preceding six-month period.
 - e. Certain offices, such as the Clerk of Court, Probate Court, Tax Assessor, among others, routinely provide copies to the public in the ordinary course of business through copying machines located in their respective offices. There is no change in the procedures used by these offices.

7. Certain information contained in public documents but exempt from disclosure may be redacted, as applicable, prior to the release of documents containing such information. If a court ruling or a statute or law outside of FOIA states that a particular type of record is confidential or subject to disclosure only under specified circumstances, then the record should not be provided pursuant to a FOIA request without the approval of the County Attorney.
8. It is Newberry County's intent that research and reproduction charges for information requested under FOIA be limited to the recovery of actual costs incurred under the most economical methods of production, and that these charges not present opportunities for profit or barriers to the free flow of information. It is further intended that such charges be uniformly applied. The following specific charges were established by the Budget Ordinance, but are subject to revision each year.
 - a. Fifteen cents (\$0.15) per copied black and white page for each copy and Fifty cents (\$0.50) per copied color page, except that the cost of copying Council minutes, Resolutions and Ordinances and the like may be free to the requestor, if a small number of copies are involved, and if it is determined that the requested information is "primarily benefiting the public." In cases where a large number of copies are requested, all copies shall be charged for and depending on the total amount some reductions in the per page cost may apply. If records are not in electronic format and the County agrees to produce them in electronic format, the County may charge for the staff time required to transfer the documents to electronic format.
 - b. Ten dollars (\$10.00) per hour for staff time for employees below the department head level, as necessary to research/retrieve the requested public records, and to copy and assemble the requested information. Charges for executive and professional-level staff time, when the expenditure of such staff time is unavoidable, will be assessed based on the actual rate of compensation for such staff persons, but will be determined and communicated to the requestor in advance. No charges will be assessed for the expenditure of staff resources if not authorized by the FOIA.
 - c. A deposit not to exceed twenty-five percent of the reasonably estimated cost of retrieving and copying requested information will be required for copies in excess of 100, or if the request relates to information not readily retrievable or which will require unusual staff time to provide. County employees are not required to work overtime or to neglect their other duties in responding to FOIA requests. If the time for providing records is expected to exceed the deadlines for providing the record(s) the County and the requestor may extend the deadline by written mutual agreement. The obligation of the County is to make records available for review by

the public; employees are not required to analyze data or make data compilations in responding to FOIA requests.

9. Any questions relating to whether specific information should be released, or the form in which information is to be provided, or made available for review, are to be addressed to the Clerk to Council, who shall consult with the County Attorney in these matters, as necessary.
10. Inquiries from representative of the news media shall be directed to the County Administrator, to the Chairman of County Council or to the Clerk to Council, as is appropriate, for a response. Unless specifically authorized to do so, employees shall not make statements to the news media about County business.
11. Willful disregard of, or violation of, this policy by any employee or other person who is subject to it, may constitute insubordination and be grounds for disciplinary action, up to and including termination.
12. This policy is effective immediately.

AND IT IS SO RESOLVED BY Newberry County Council in meeting duly

assembled this 16th day of August, 2017.

NEWBERRY COUNTY COUNCIL

Henry H. Livingston, III, Chairman

SEAL

Attest: _____
Laurie N. Renwick, Clerk to Council