

STATE OF SOUTH CAROLINA)
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 COUNTY OF DORCHESTER) ORDINANCE NUMBER 18-01

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, DORCHESTER COUNTY, SOUTH CAROLINA, BY REPEALING AND REPLACING ARTICLE I, CHAPTER 2, SEC. 2-1, WHICH SETS FOURTH THE PROTOCOL FOR FOIA REQUESTS

It is hereby Ordained by Dorchester County Council, duly assembled, that the Code of Ordinances, Dorchester County, South Carolina, is hereby amended to repeal Sec. 2-1 of Article I, Chapter 2, and to replace the same with a new Sec. 2-1, which shall read as follows:

Sec. 2-1. Protocol regarding FOIA requests

(a) The County Administrator or designee will coordinate all requests under the Freedom of Information Act (FOIA) and be the county's contact with the person making the FOIA request.

(b) The County Administrator or designee will maintain a record of all FOIA requests and responses reflecting dates and times on each and every FOIA request and response.

(c) Records must be provided in a form that is convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for the county to provide the records in this form. However, the county is not required to create an electronic version of a public record when one does not exist to fulfill a records request.

(d) A fee may be charged for the search, retrieval, or redaction of records. These fees shall not exceed the prorated hourly salary of the lowest paid employee who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request. Fees charged by the County must be uniform for copies of the same record or document any may not exceed the prevailing commercial rate for the producing of copies. Copy charges may not apply to records that are transmitted in an electronic format. A fee may be charged in advance and upon delivery of services or documents for the search, retrieval, redaction and copying of those documents as set out in subsection (d)(5) of this section. An estimated cost of production and copying of requested documents may be determined prior to production and copying and payment shall be made before searching for or making copies of the records. A current fee schedule will be posted online.

(1) The records must be furnished at the lowest possible cost to the person requesting the records.

- (2) 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.
- (3) Documents may be furnished when appropriate without charge or at a reduced charge when the county determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.
- (4) Fees may not be charged for examination and review to determine if the documents are subject to disclosure. Fees may be charged for the search, retrieval and redaction of records.
- (5) The county may require a deposit not to exceed twenty-five percent of the total reasonably anticipated cost for reproduction of the records prior to searching for or making copies of records.
- (6) The full amount of the total cost must be paid at the time of the production of the request.

(e) Upon written request for records, the county shall within ten days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of the request, notify the person making the request of its determination and the reasons for it; provided, however, that if the record is more than twenty-four months old at the date the request is made, the county has twenty days (excepting Saturdays, Sundays, and legal public holidays) of the receipt to make this notification. This determination must constitute the final opinion of the public body as to the public availability of the requested public record, however, the determination is not required to include a final decision or express an opinion as to whether specific portions of the documents or information may be subject to redaction according to exemptions provided for by Section 30-4-40 of the South Carolina Code of Ordinances or other state or federal laws. The various response, determination, and production deadlines provided by this subsection are subject to extension by written mutual agreement of the public body and the requesting party at issue, and this agreement shall not be unreasonably withheld.

(1) If the request is granted, the County must furnish the records or make the records 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.

(2) If a deposit as provided in subsections (e)(5) of this ordinance is required by the County, the record must be furnished or made available for inspection or copying no later than thirty calendar days from the date on which the deposit is received, 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 deposit was received to fulfill the request.


(3) If written notification of the determination by the County as to the availability of the requested public record is neither mailed, electronically transmitted, nor personally delivered to the person requesting the document within the time set forth by this section, the request must be considered approved as to nonexempt records or information.

(4) Exemptions from disclosure as set forth in Section 30-4-40 of the South Carolina Code of Ordinances or by other state or federal laws are not waived by the County's failure to respond as set forth in this subsection.


(5) The County may file a request for hearing with the circuit court to seek relief from unduly burdensome, overly broad, vague, repetitive, or otherwise improper requests, or where it has received a request but it is unable to make a good faith determination as to whether the information is exempt from disclosure.

(f) The following county records must be made available for public inspection and copying during normal business hours, unless the record is exempt pursuant to Section 30-4-40 of the South Carolina Code of Ordinances or other state or federal laws, without the requestor being required to make a written request to inspect or copy the records when the requestor appears in person: (1) County Council meetings minutes for the preceding six months; (2) all reports identified in Section 30-4-50(A)(8) of the South Carolina Code of Ordinances for at least the fourteen-day period before the current day; (3) documents identifying persons confined in a jail, detention center, or prison for the preceding three months; and (4) all documents produced by the county that were distributed to or reviewed by a member of County Council during a public meeting for the preceding six-month period. Records made publically available on the website are deemed to be in compliance with the provisions of this subsection, provided that the county also produces documents pursuant to this section upon request.

Approved and adopted at 3rd and final reading this 5th day of February, 2018.


James Lex Byars, III, Chairman
Dorchester County Council

First Reading: 01/02/2018
Second Reading: 01/16/2018
Third Reading: 02/05/2018

ATTEST:

Tracey L. Langley, Clerk of Council