



# Freedom of Information Act Policy

Adopted by the City of Westminster, SC on January 22nd, 2019

## **POLICY STATEMENT**

The City of Westminster, South Carolina (the “City”) recognizes the findings of the General Assembly of South Carolina that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. In order to ensure that the Authority conducts its business in an open and public manner, it shall be the policy of the City to comply with both the letter and the spirit of the South Carolina Freedom of Information Act (“FOIA”), as codified at Sections 30-4-10 *et seq.* of the Code of Laws of South Carolina 1976, as amended, when processing requests for access to public records (this “Policy”).

## **MAKING A FOIA REQUEST**

All requests for public documents pursuant to FOIA, except for those described below, must be made *in writing* and submitted either (i) in person at City Hall, which is located at 100 E Windsor Street, Westminster, South Carolina 29693; (ii) by mail to the City of Westminster, Attn: City Administrator PO Box 399, Westminster, South Carolina 29693; or (iii) by electronic mail to [info@westminstersc.org](mailto:info@westminstersc.org). Requests should be made using the FOIA Request Form (the “Request Form”) provided by the City and made available to the public, a copy of which is attached to this Policy. Requests made by letter or in some other written form shall contain substantially the same information provided for on the Request Form. When requests are submitted by fax, the requesting individual may be instructed to submit the request using one of the approved methods set forth in this Policy. In order to ensure the most accurate and prompt response, requests should be as detailed, specific, and descriptive as possible. With the exception of the records detailed below, fees shall be assessed in accordance with the current version of the CITY OF WESTMINSTER’S SCHEDULE OF FEES.

Requests to inspect the following public records need not be in writing provided the requestor appears at the office(s) of the City in-person and within normal City business hours:

1. Minutes of all public meetings of the City for the preceding (6) six months; and
2. Documents produced by the City or its agent that were distributed to or reviewed by a member of the public body during a public meeting for the preceding (6) six months.

## **PROCESSING FOIA REQUESTS**

Where any City employee receives any written request for public records, the request should immediately be stamped with the date of receipt and delivered to the City Administrator (the “Administrator”). The Administrator should evaluate each request based upon the statutory requirements of FOIA regarding any applicable exemptions, federal restrictions on disclosure, or limitations on the commercial use of data. However, the presumption in evaluating FOIA requests should be in favor of disclosing the requested records. Where an exemption to FOIA could possibly permit the Administrator to decide not to disclose the requested records, the

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Administrator should consult with the City's attorney to determine if an exemption applies and whether the City should decline to disclose the records based upon the exemption.

### **INITIAL RESPONSE DEADLINES**

The City Administrator or designee must respond to all FOIA requests within the time frames outlined below:

<u>Document Age</u>	<u>Response time</u>
Less than 24 months old	Within 10 business days
More than 24 months old	Within 20 business days

It shall be the policy of the Authority to respond to FOIA requests as quickly as possible. Where possible, the response to the request should include the requested records. Otherwise, the response should either inform the requestor that the requested records will be made available, along with the means of obtaining them and any additional costs that will be charged for making the records available, or it should inform the requestor that the requested records fall under an exemption to FOIA and will not be disclosed. The initial response shall constitute the final determination of the City as to whether records are available and subject in whole to an exemption under FOIA, but will not constitute a final opinion as to whether portions of the requested documents are subject to redaction under a FOIA exemption.

### **PRODUCTION DEADLINES**

For all granted requests, the City shall furnish the records within the time frames outlined below, as measured from the date of initial or response or, where applicable, the payment of a deposit.

<u>Document Age</u>	<u>Production time</u>
Less than 24 months old	30 calendar days
More than 24 months old	35 calendar days

The response and production deadlines may be extended by written mutual consent, and the requesting party may not unreasonably withhold such consent. The City shall not create new records, nor summarize existing records. Requested records shall be released in the format most convenient to the City. The City may, in its sole discretion, create electronic records where they do not otherwise exist.

### **RECORDS EXEMPT FROM DISCLOSURE**

The City adopts as a part of this Policy any and all exemptions, restrictions or limitations contained within FOIA, as FOIA may be amended from time to time, along with any other exemptions, restrictions or limitations that may be provided for now or in the future under South Carolina or federal law. As previously stated herein, The City Administrator, consulting with the City's attorney, shall determine whether an exemption to the disclosure requirements of FOIA applies. Where an exemption, restriction, or limitation applies, the City Administrator, based upon consultation with the City's attorney, should decide whether to deny disclosure based upon the application of the available exemption, restriction, or limitation. Where records contain certain information exempt from disclosure but which otherwise fall outside of an exemption, restriction or limitation, the exempted information shall be redacted and requested records shall otherwise be disclosed. The City may request for a hearing before the Circuit Court of Oconee County to seek relief from unduly burdensome, overly broad, vague, repetitive, or otherwise improper requests, or where it receives a request but is unable to make a good faith determination as to whether the information is exempt from disclosure.

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### **FAILURE TO COMPLY:**

In addition to penalties available under FOIA, 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 of employment.

### **COSTS FOR PROCESSING FOIA REQUESTS**

The Board, pursuant to Section 30-4-30 of FOIA, has established the fee schedule below, which may be approved and updated as part of the City's regular schedule of fees and charges. The charges set forth therein are no greater than, and in some instances may be less than, the actual cost to the City of searching for and making copies of requested public records. In general, costs for staff time necessary to respond to a FOIA request shall not exceed the prorated hourly salary of the lowest cost employee of the City who, in the opinion of the City Administrator, has the training necessary to fulfill the request. Costs shall not be charged for time spent examining records to determine whether they may be disclosed. Charges for copies of records will not exceed the standard commercial rate. Additionally, copy charges do not apply to electronic copies; however, the City may charge a fee for cost of staff time to transfer the document to electronic format and the actual cost to the City for electronic media. Where it is anticipated that the staff time necessary to comply with a request may exceed twenty-five dollars (\$25.00), the requestor may be required to pay a deposit of one quarter of the estimated costs of complying with the request before staff will begin searching for or making copies of the requested records. Each requesting party shall pay the full amount due prior to delivery of records under FOIA or this Policy.

### **PROHIBITION ON COMMERCIAL SOLICITATION USE**

Knowingly obtaining or using personal information obtained from the City for commercial solicitation is strictly prohibited. The measure employed by the City to ensure that no record is used for commercial solicitation purposes shall be to deny requests for records under FOIA where the only reasonably perceptible use for the requested records by the requesting party is commercial solicitation. Upon denial of a request by the City, the requesting party is to be notified that it has the burden to demonstrate a purpose for which the requested records may be used that is not commercial solicitation. All responsive communications provided by the City shall include a Certification of FOIA Fulfillment (the "*Certification*"), a copy of which is attached hereto. The Certification will be signed by the City staff person charged with providing requested records and will include the following statement:

Pursuant to § 30-2-50 of the Code of Laws of South Carolina, 1976, as amended, you are prohibited from knowingly using public records obtained from the City of Westminster for commercial solicitation. Violation of this law is punishable by law as a misdemeanor, resulting in up to a year in prison or a fine not to exceed \$500.

### **FEE SCHEDULE FOR STAFF TIME AND COPIES**

Fees are assessed in accordance with the current version of the City of Westminster Schedule of Fees.

**FREEDOM OF INFORMATION ACT REQUEST FORM**

The City of Westminster, South Carolina (the "City") has adopted its "Policy Regarding Requests for Public Records Under the Freedom of Information Act" (the "Policy"). Pursuant to the Policy, requests for information made under the Freedom of Information Act, now codified at §§ 30-4-10 *et seq.* of the Code of Laws of South Carolina, 1976, as amended (the "FOIA") shall be made using this form. This form must be signed and submitted either (i) in person at City Hall, which is located at 100 E Windsor Street, Westminster, SC, 29693; (ii) by mail to the City of Westminster, Attn: City Administrator, PO Box 399, Westminster, SC, 29693; or (iii) by electronic mail to [info@westminstersc.org](mailto:info@westminstersc.org). Fees will be charged at the rates listed in the current version of the CITY OF WESTMINSTER SCHEDULE OF FEES. No faxed requests will be accepted.

NAME: \_\_\_\_\_ DATE OF REQUEST: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ EMAIL: \_\_\_\_\_

DELIVERY PREFERENCE METHOD (check one):  Pick up in person  U.S. First Class Mail  Email link to filesharing website  
 Flash drive to be picked up in person  Flash drive delivered by U.S. Mail

I, the undersigned, agree to pay the charges set by the fee schedule as listed in the CITY OF WESTMINSTER SCHEDULE OF FEES for the services and copies I have requested. The SCHEDULE OF FEES can be found on the City of Westminster website at [www.westminstersc.org/financial-transparency](http://www.westminstersc.org/financial-transparency) or in person at City Hall.

SIGNATURE: \_\_\_\_\_

INFORMATION REQUESTED (please be as specific as possible and attach additional pages if needed):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Section 30-4-30(b) of FOIA authorizes the City of Westminster, as a public body, to charge and collect fees for the actual costs of responding to requests for public information. Under the Policy, the City has duly adopted the fee schedule set forth below for copies and for staff time in searching for and providing requested information. A deposit is required for requests that are anticipated to exceed twenty-five dollars (\$25.00).

PURSUANT TO § 30-2-50 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, YOU ARE PROHIBITED FROM KNOWINGLY USING PUBLIC RECORDS OBTAINED FROM THE OCONEE JOINT REGIONAL SEWER AUTHORITY FOR COMMERCIAL SOLICITATION. VIOLATION OF THIS LAW IS PUNISHABLE AS A MISDEMEANOR, RESULTING IN UP TO A YEAR IN PRISON OR A FINE NOT TO EXCEED \$500. MY FILING OF THIS REQUEST CONSTITUTES ACKNOWLEDGMENT OF THIS PROHIBITION.

The City of Westminster SCHEDULE OF FEES can be found on the City's website at [www.cityofwestminstersc.org/financial-transparency](http://www.cityofwestminstersc.org/financial-transparency) or in person at City Hall.

**FOR CITY USE ONLY**

DEPARTMENT SUBJECT TO REQUEST: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

REQUEST ASSIGNED TO: \_\_\_\_\_

DATE OF COMPLETION: \_\_\_\_\_

DATE OF ASSIGNMENT: \_\_\_\_\_

FEE FOR SERVICES: \_\_\_\_\_

DATE RESPONSE DUE: \_\_\_\_\_

METHOD OF PAYMENT: \_\_\_\_\_

Notes:

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**CERTIFICATION OF FOIA FULFILLMENT  
FOR THE CITY OF WESTMINSTER**

**PURSUANT TO §§ 30-2-50 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, YOU ARE PROHIBITED FROM KNOWINGLY OBTAINING OR USING INFORMATION OBTAINED FROM THE CITY OF WESTMINSTER FOR COMMERCIAL SOLICITATION. VIOLATION OF THIS PROHIBITION IS PUNISHABLE BY LAW AS A MISDEMEANOR, RESULTING IN UP TO A YEAR IN PRISON OR A FINE NOT TO EXCEED \$500.**

REQUESTOR NAME: \_\_\_\_\_

DATE OF REQUEST: \_\_\_\_\_

DATE OF RESPONSE: \_\_\_\_\_

I, \_\_\_\_\_, the undersigned employee of the CITY OF WESTMINSTER, certify that I have processed your request for access to public records pursuant to the Freedom of Information Act, as codified at §§ 30-4-10 et seq. of the Code of Laws of South Carolina 1976, as amended, and am making available to you via [U.S. Mail] [E-mail] [in-person delivery] (circle one) the requested records contained herein.

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CITY OF WESTMINSTER