



Beaufort County Freedom of Information Act Policy

I. PURPOSE

The purpose of the Beaufort County Freedom of Information Act (FOIA) Policy (“Policy”) is to set forth a uniform policy for processing, responding to, and tracking requests for public records. This Policy is intended to balance Beaufort County’s (“County”) commitment to transparency and openness, while ensuring the protection of the County’s confidentiality concerns and security interests.

This Policy does not intend to encompass all aspects of FOIA law, nor to detail the specific procedures of the County’s FOIA specialists. Any term not specifically defined in this Policy shall be defined as provided for in S.C. Code Ann. Title 30 Chapter 4.

II. BACKGROUND

The South Carolina Freedom of Information Act, S.C. Code Ann. Title 30 Chapter 4 provides the public access to public records created by or in the custody of Beaufort County in order to “learn and report fully the activities of their public officials.” S.C. Code Ann. §30-4-15. Except as provided for by law, FOIA governs access to public records in the possession of public bodies or its officers and employees.

III. APPLICABILITY

This policy is applicable to all departments under the supervision of the Beaufort County Administrator and to any board or commission whose members are appointed by the County Council of Beaufort County, South Carolina, as well as the governing body of Beaufort County Government. This Policy shall apply to all parties submitting a request for public records including, but not limited to, individual citizens, businesses, and media publications.

IV. ROLES AND RESPONSIBILITIES

A. Records Management Department and FOIA Specialist

The Beaufort County Records Management Department (“Records Management”) has designated FOIA specialists who administer the process of accepting, processing, routing, compiling and responding to all FOIA requests for all Beaufort County departments. The FOIA specialists work within the Records Management Department and are supervised by its department head.

B. Department FOIA Representative

Within each county department, persons are appointed as department-level Freedom of Information Act representatives to receive and respond to portions of FOIA requests assigned to their department. These FOIA representatives and their department heads are responsible for fulfilling FOIA requests.

C. Elected Officials

Elected officials (i.e., County Council, Clerk of Court, Probate Judge, Sheriff, Coroner, Auditor, and Treasurer) and their departments, boards and officers, who are not subordinate to the County Administrator, may handle their own FOIA requests. If the elected official decides to allow Records

Management and the FOIA Specialists to administer their FOIA requests, they agree to adhere to the policy and procedures set forth in this Policy.

V. PUBLIC RECORDS GENERALLY

A. Public Records Under FOIA

A “public record” is any record containing information relating to the conduct of government business, which is prepared, owned, used, or retained by a public body. This includes, but is not limited to, emails, handwritten notes, reports, drafts, letters, spreadsheets, contracts, calendars, audio files, and photographs.

It is the subject matter of the record, not its form, which determines whether a record is considered a public record.

B. Records Not Under this FOIA Policy

Any record that was not created, produced, collected, received or retained during the ordinary course of business are not considered public records, and are not subject to disclosure under FOIA. These types of records include, but are not limited to, spam emails, documents or emails of a personal nature(s).

Requests for public records in the custody of the following public bodies, among others, are not in the custody of Beaufort County and are therefore not covered by this Policy:

1. Beaufort County School District
2. Fourteenth Circuit Solicitor’s Office

C. Access to FOIA Requests

The Records Management Department is the County department solely responsible for receiving and maintaining FOIA requests and the documents associated with FOIA requests. Beaufort County employees and staff members should not access the FOIA database, or any documents associated with a FOIA request, that do not require their attention. If it is determined by the County Administrator and Records Management Department that a County employee or staff member has inappropriately accessed a FOIA request, disciplinary actions as provided for in the Beaufort County Employee Handbook shall be followed.

This Section is not applicable to public bodies who are not covered by this Policy.

D. Communication Following a FOIA Request

Following the receipt of a FOIA request related to, but not limited to, an elected official, County employee, or confidential information the Records Management Department will communicate the FOIA request to the County Administrator. The County Administrator will, at its discretion, inform the individuals related to the FOIA request of the information being requested.

VI. SUBMITTAL OF FOIA REQUESTS

A. Form of Requests

By law, any member of the public can submit a FOIA request to any member of Beaufort County government verbally or in writing. A request for public records are encouraged to be made in writing to the Records Management department by completing the online FOIA Request Form on the Beaufort County website: <http://www.beaufortcountysc.gov/foia>.

If a request is received by a department other than Records Management, the receiver should adhere to the appropriate following response:

a) Email. Immediately forward the entire request and all attachments to the FOIA Specialist at bcfoia@bcgov.net.

b) Mail or Delivery Service. Stamp or mark the envelope with the date it was received and forward everything via interdepartmental mail to "FOIA/Records Management."

c) Phone. Transfer the call to 843-255-7200.

d) In Person. Either direct the requester 1) to complete the form on the website; 2) to email the request to bcfoia@bcgov.net; or 3) call 843-255-7200.

B. Receipt Date/Time

The processing time for a FOIA request begins on the day the request is received, except for requests received outside of normal business hours. Requests received 4:30 p.m. or later on a business day, on weekends, or on holidays are considered received the next business day.

C. Content of Requests

Requestors are encouraged to provide as much specificity as possible to ensure the County can identify and locate the requested records. If a request(s) is not reasonably specific, the Records Management Department should contact the requester within ten (10) days to request additional information.

D. Responses to Requester

In accordance with the South Carolina Freedom of Information Act, Beaufort County has ten (10) working days (excepting Saturdays, Sundays, and legal public holidays) to determine if the information requested is publicly available under the FOIA and whether or not a fee is required.

Before the end of the ten (10) day response period written communication should be sent to: (1) acknowledge the receipt of the request; (2) confirm the request was specific enough to obtain records, provide information about fees, costs; (3) convey whether a 25% deposit is required; (4) provide a date, time, and place the records will be available to be inspected if an inspection is requested.

E. Deposit Requirement

Following an assessment by Records Management, if the request exceeds an actual cost of \$50.00, a 25% deposit may be required before the request is fulfilled. When a deposit is required, the 30 calendar day response period does not begin until the required deposit is received.

Payment is **required in full** before the public records are released to the requestor.

VII. OBTAINING RECORDS

Within 10 business days of the original request (or 20 business days for records more than 24 months old), the FOIA specialists must respond to the requester with their findings. They will either provide the requested documents to the requester (if all have been provided by the departments), or they will notify the requester that documents exist but that it will take time to search and compile records and/or that a fee is required to complete the work.

The request must be completed within 30 calendar days (or 35 days for records more than 24 months old) following the receipt of a deposit or payment of the estimated full amount.

A. Department Responsibilities

Following a request from Records Management for records, each department representative must analyze the request to confirm if the requested documents pertain to that department. If so, an exhaustive search of its files must be completed in order to determine any and all documents that fulfill the broadest sense of the request. If the request does not pertain to that department or if no documents were found in response to the request, the department representative provides a statement as such, which is later reported to the requester.

B. Elected Officials

All requests for records on elected officials' personal devices or accounts, most notably emails on non-@bcgov.net accounts, must be submitted directly to the elected official. Beaufort County Administration does not own, operate, or have access to these accounts or devices nor can it compel elected officials to produce records found therein.

VIII. FOIA EXEMPTIONS

FOIA contains discretionary exemptions under which public records may be withheld, as well as mandatory exemptions. If the applicability of an exemption is uncertain the Legal Department shall be consulted.

All records in response to a FOIA request shall be submitted by the applicable department to the Records Management Department or, when appropriate, the Legal Department in their entirety without redactions.

A. Duty to Redact

Under FOIA, the County may not withhold public records in their entirety because of an exemption. The County is obligated to produce the records with the exempt material redacted, unless the records fall within a required exemption as provided for in Section VIII(B) of this Policy.

B. Required Exemptions

A record must be withheld from disclosure in its entirety when a federal or South Carolina law requires that the record is exempt from disclosure. Records which are not public record under FOIA and are exempt from disclosure entirely include:

- (1) income tax returns;
- (2) medical records;
- (3) hospital medical staff reports;
- (4) scholastic records;
- (5) adoption records;
- (6) records related to registration and circulation of library materials to the extent they identify library patrons;
- (7) information relating to security plans;
- (8) the identity or information tending to reveal the identity of any individual who in good faith makes a complaint or otherwise discloses information which alleges a violation or potential violation of law or regulation to a state regulatory agency;
- (9) obtaining or using any personal information acquired from a state agency for commercial solicitation; or
- (10) other records which by law are required to be closed to the public.

No department should make the decision to withhold records without consulting the Records Management Department or the Legal Department.

C. Employee Personnel Files

Beaufort County employee personnel files (“Personnel File”) may be released in accordance with this Section. A Personnel File includes “information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy.” S.C. Code Ann. Sec. 30-4-40. Specifically, documents including, but not limited to, drivers licenses, information about spouse and children, personal phone numbers, personal email addresses, resumes, health insurance, benefit packages, employee reviews, and resignation letters will be redacted in order to adhere to FOIA law and protect the personal privacy of Beaufort County employees.

D. Architectural Plans and Surveys

Architectural plans are protected by federal law, and under SC Code 30-4-30(A)(1) a person has a right to “inspect, copy or receive an electronic transmission of any public record of a public, except as otherwise provided by Section 30-4-40, or other state and federal laws.” Pursuant to the aforementioned SC Code Section, the request for architectural plans are exempt or are redacted accordingly.

Surveys shall not be released, copied, or distributed. The County shall allow for individuals to view a survey upon request.

E. Video and Audio Records

Video and audio recorded within any building owned or occupied by Beaufort County are for security purposes and copies will not be released. Matters exempt from disclosure, S.C. Code Ann. Sec. 30-4-40.

F. Release of Exempt Records or Documents

Nothing in this Section is to conflict with, or supersede, any other Beaufort County policy relating the maintenance or release of records or documents. If this Section does conflict with any other Beaufort County policy, then the other policy shall be followed.

1. *Owner of Record Required.* A record or document that is exempt pursuant to the Beaufort County FOIA Policy, may be released at the discretion of the County when the requester is the owner of the records or document. Additionally, when applying the privacy exemption the County may, at its discretion, release the reports or documents to the requester if the privacy interest at stake in the FOIA exemption belongs to the requester. If the County determines that the exempt records or documents are releasable pursuant to this section, then the requester must complete a Statement as provided for in Exhibit A of this Policy, or a similar document as provided for by the County.

2. *Commercial Solicitation.* A FOIA request that includes, but is not limited to, extensive tax records, housing records, or records pertaining to a large number of citizens in the County; the County may require a Commercial Solicitation Statement be executed by the requester. Prior to the documents being released, the County must receive a copy of the executed Statement as provided for in Exhibit B of this Policy, or a similar document as provided for by the County.

IX. CHARGES FOR THE PRODUCTION OF RECORDS

The FOIA allows the County to establish and collect reasonable fees not to exceed the actual cost of the search, retrieval, and redaction of records. S.C. Code Ann. §30-4-30(B). The County may amend the charges for costs when determined appropriate by the County Administrator.

A. Labor Costs

Each department providing records in a response to a FOIA request is responsible for providing the number of hours required to complete the response to Records Management Department. The number of hours will be charged for the actual time spent by County staff in producing the requested records rounded down to the nearest 15-minute increment. The hourly rate “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.” S.C. Code Ann. §30-4-30(B).

The labor cost will be calculated according to the following guidelines:

Service	Cost
Search and Retrieval by Department for Records <i>(excluding IT Department)</i>	Department Staff: \$14.00/hour Department Director: \$24.00/hour Assistant Administrator: \$50.00/hour Deputy/County Administrator: \$50.00/hour
Retrieval of Electronic Records by the IT Department	IT Department: \$33.00/hour
*Redactions	FOIA Specialist: \$14.00/hour Legal Department: \$30.00/hour

**Cost of redactions are based on one (1) minute per page requiring redaction*

B. Copying and Other Costs

When physical copies of the records are requested the County shall provide the requestor the current rate of the County’s copying cost per page. The charge for copying must reflect the actual costs incurred by the County. The charges in this Section do not include records that are provided electronically to the requester.

The County may charge for the actual cost of the medium used to provide the records including, but not limited to, thumb drive, CD, or DVD; and for the actual cost of postage and packaging associated with mailing the responsive records.

Copying and other costs will be calculated according to the following guidelines:

Service	Cost
Printed Copies of Records <i>(excluding GIS Maps)</i>	\$0.20 per page (up to 11x17 only)
GIS Maps	\$10.00 up to 11x17 \$20.00 larger than 11x17
USB Drive	\$7.00 each
Certified Copy from Clerk of Court	\$3.00 per copy
Certified Copy from Family Court	\$5.00 per copy (All documents will be certified)
Certified Copy from Magistrate	\$0.50 per page
Postage expense	Actual cost as determined by size, weight and zip code

C. Cost Waiver

The County may waive the costs associated with a FOIA request when the cost of producing the response is less than \$50.00. A waiver shall not be applied when a requester, or anyone associated with the requester, submits a second request for public records within seven (7) calendar days of the first request,

and the requests are of the same nature. The waiver as provided for in this Section is applied at the discretion of Records Management and the County Administrator.

X. Inactive FOIA Requests

FOIA requests will be closed after 90 calendar days of inactivity. Inactivity is defined as a lack of a response from requesters to phone calls and/or correspondence by FOIA specialists or due to a lack of payment, and will typically not be reopened.

After 30 days of inactivity, FOIA specialists will issue one courtesy reminder in an attempt to reopen communication with the requester. After 90 days, the requester must submit a new FOIA request, which will be processed normally.

Upon a request being inactive, the requestor surrenders any deposit and the deposit may not be used towards any future FOIA requests.



Release of Record or Document Statement of Ownership and Indemnity Agreement

Contact Information:

Address

Telephone Number

Email Address (if available)

I, _____, being first duly sworn on oath says: (please initial)

_____ I am the owner of the record or document being requested.

_____ I am the individual, or have been provided authorization by the individual, who the records are about.

I hereby authorize Beaufort County to release the aforementioned document to me and I hereby agree to completely indemnify Beaufort County against any claim to releasing such record or document which might be made by any person, in the event that person is determined to be the rightful owner or interested party to such record or document.

Claimant's Signature

Authorized Individual (*when applicable*)

To Be Completed by Beaufort County

Date Statement Received _____ Receipt Acknowledged by: _____



Statement of Commercial Solicitation and Indemnity Agreement

Contact Information:

Address

Telephone Number

Email Address (if available)

I, _____, being first duly sworn on oath says: (please initial)

_____ I am the individual requesting the information.

_____ I am representing _____, as the _____
Name of Corporation/Organization *Title of Position*

I hereby affirm that the information requested from Beaufort County pursuant to a Freedom of Information Act request, **will not be used for commercial solicitation nor knowingly sold or given to secondary or tertiary parties** who intend to use the information for Commercial Solicitation as defined in Section 30-2-10 of the *South Carolina Code of Laws* (2017, as amended). I hereby agree to completely indemnify Beaufort County against any claim, by any individual, if such record or document is used for Commercial Solicitation purposes.

Requestor's Signature

To Be Completed by Beaufort County

Date Statement Received _____ Receipt Acknowledged by: _____