

AN ORDINANCE TO ADOPT THE TOWN'S POLICY REGARDING REQUESTS FOR RECORDS UNDER THE FREEDOM OF INFORMATION ACT AND AMENDMENT TO ORDINANCE NO. 11-2003 ADMINISTRATION GENERAL OFFICE FEES

Policy Statement: It shall be the policy of the Town of Atlantic Beach, South Carolina (the "Town") to comply with both the letter and the spirit of the Freedom of Information Act ("FOIA"), as codified at §§ 30-4-10 et seq. of the Code of Laws of South Carolina 1976, as amended, in regards to the processing of requests for access to public records. This Policy is amended, in regard to the processing of requests for access to public records. This Policy is applicable to all departments under the supervision of the Mayor, and to any commission whose members are elected or appointed by the Town of Atlantic Beach, the governing body of the Town (the "Council").

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: in person at the Town of Atlantic Beach Town Office during business hours or by mail to: PO Box 5285 North Myrtle Beach, SC 29597. Ideally, requests shall be made using the Freedom of Information Act Request Form (the "Request Form") provided by the Town and made available to the public, a copy of which is attached hereto. 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 incorrectly submitted the requesting, individual may be instructed to resubmit 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. The Town of Atlantic Beach does not accept and cannot be responsible for FOIA requests submitted via email or fax.

Processing FOIA Requests: The Town Clerk and Police Chief are designated as the staff members to be responsible for and familiar with any FOIA request. Council members, other employees, or independent contractors should not receive any written request in person, the Council person, other employee, or independent contractor may direct the requestor to see the Town Clerk or Police Chief for proper submission. If a Council person, other employee, or independent contractor receives a request by other means, then the request should be stamped with the date of receipt and **as soon as practical** delivered to the Town Clerk or Police Chief. Routine FOIA requests may be handled directly by the Town Clerk or Police Chief. The Town requests and on any questions of law involving FOIA. Where an exemption, restriction or limitation to FOIA possibly exists, the Town Clerk or Police Chief may consult with the Town Attorney to determine if an exemption, restriction or limitation applies and whether the Town should decline to disclose the records based upon the exemption, restriction or limitation.

Initial Response Deadline: The Town Clerk/Police Chief must respond to all FOIA requests within the timeframes outlined:

Documents less than 24 months old:	10 business days
Documents more than 24 months old:	20 business days

It shall be the policy of the Town 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 or that no such town records matching the request exist. The initial response shall constitute the final determination of the Town 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 Town 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.

Documents less than 24 months old:	30 calendar days
Documents 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 Town shall not create new records, nor summarize existing records. Requested records shall be released in the format most convenient to the Town. The Town may, in its discretion, create electronic records where they do not otherwise exist.

Records Exempt from Disclosure: The Town 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 Town Clerk may consult with the Town Attorney to determine whether an exemption, restriction or limitation applies, the Town Clerk, based upon consultation with the Town 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 Town may request for a hearing before the Circuit Court of Horry County to seek relief from unduly burdensome, overly broad, vague, repetitive, or otherwise improper requests, or where it receive request but is unable to make a good faith determination as to whether the information is exempt from disclosure.

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 Council, pursuant to Section 30-4-30 of FOIA, has established the fee schedule attached, which has been made available as part of the Town's schedule of fees and charges which will be published on the Town's website. The charges set forth therein are no greater than, and in some instances may be less than, the

actual cost to the Town of searching for and making copies of requested public records. Fees may be paid in cash or check, made payable to The Town of Atlantic Beach; no credit cards will be accepted. The Mayor/Council/Police Chief may elect to waive all or part of the fees. Charges for copies of records will not exceed the standard commercial rate. Where it is anticipated that the staff time necessary to comply with a request may exceed three hours, 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. Requesting party shall pay the full amount due prior to delivery of records. Where an individual has an unpaid bill for a prior FOIA request, such as for a bad check, the Town may decline to act upon any new FOIA request from that individual until the prior bill and fees have been paid.

Prohibition on Commercial Solicitation Use: Knowingly obtaining or using personal information obtained from the Town for commercial solicitation is strictly prohibited. The measure employed by the Town to ensure that no record is used for commercial solicitation purpose 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 Town, 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 Town shall include a Certification of FOIA Fulfillment ("*Certification*"), a copy of which is attached hereto. The Cover Page will be signed by the Town Clerk/Police Chief charged with providing requested records and will include the following statement:

Pursuant to § 30-2-50 of the Code of Laws of South Carolina, you are prohibited from knowingly using public records obtained from the Town of Atlantic Beach 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.

Freedom of Information Act Request Fee Schedule


Under this Policy, the Town of Atlantic Beach has duly adopted the fee schedule set forth below for copies and for staff assistance in searching for/or providing requested information.

	Hours	X Rate	Cost
Search/Retrieval/Redact Time_ Regular Town Business		\$16.50/hr.	
Search/Retrieval/React Time_ Police Related		\$22.89/hr.	
Copies:	Number of Pages:	Unit Price (1Pg.=1 Unit)	
Paper Records/Standard Reports		\$0.25/page	
Standard Color Copies		\$0.30/page	
Audio Files		\$6.00/page	
CD/DVD		\$1.00 each + production time	
Standard Maps Larger than 8.5" x 14"		Actual Cost	
Offsite Non-Standard Printing		Actual Rate + time + mileage	
Postage/Shipping (USPS/FEDEX/UPS)		Actual Rate	
TOTAL COST			

******Requests which are estimated to require three or more hours of staff time for research will be accompanied by a deposit of 25% to defray costs in the event the requestor fails to pay for copies and wages of the staff collecting and copying the documents. No documents shall be released until such time as the difference is remitted. NO FOIA request shall be honored for any person who has failed to reimburse the Town for costs associated with prior FOIA requests until such time as they remit the fees that are in arrears.***

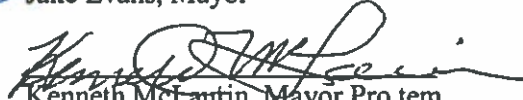
DONE, IN COUNCIL, ASSEMBLED THIS 7TH DAY OF MAY, 2018

ATTEST:


Town Clerk



Town Manager


Jake Evans, Mayor


Kenneth McLaurin, Mayor Pro tem


Josephine Isom, Councilmember


Jacqueline Gore, Councilmember


Lenearl Evans, Councilmember

First Reading: April 9, 2018

Second Reading: May 7, 2018