

## APPENDIX A

## FREEDOM OF INFORMATION ACT

Editor's Note. Act No. 118, of the 1987 South Carolina Legislature repealed Chapter 3 of Title 30, commonly called the "Freedom of Information Act." A new Chapter 4 was added, effective May 26, 1987, which incorporated numerous changes in the Act. They are reproduced herein for ease of reference.

Two 1993 amendments to §30-4-40 and §30-4-50, respectively, are included herein.

- §30-4-10. Short Title.
- §30-4-15. Findings and Purpose.
- §30-4-20. Definitions.
- §30-4-30. Right to inspect or copy records; fees; notification as to public availability of records.
- §30-4-40. Matters exempt from disclosure.
- §30-4-50. Certain matters declared public information.
- §30-4-60. Meetings of public bodies shall be open.
- §30-4-70. Meetings which may be closed; procedure; circumvention of chapter; disruption of meeting; executive sessions of General Assembly.
- §30-4-80. Notice of meetings of public bodies.
- §30-4-90. Minutes of meetings of public bodies.
- §30-4-100. Injunctive relief; costs and attorney's fees.
- §30-4-110. Penalties.

§30-4-10. Short Title.

This Chapter shall be known and cited as the "Freedom of Information Act."

§30-4-15. Findings and Purpose.

The General Assembly finds 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. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

§30-4-20. Definitions.

(a) "Public body" means any department of the State, and state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known, and includes any quasi-governmental body of the State and its political subdivisions, including, without limitation, bodies such as the South Carolina Public Service Authority and the South Carolina State Ports Authority. Committees of health care facilities, which are subject to this Chapter, for medical staff disciplinary proceedings, quality assurance, peer review, including the medical staff credentialing process, specific medical case review, and self-evaluation are not public bodies for the purpose of this Chapter.

(b) "Person" includes any individual, corporation, partnership, firm, organization or association.

(c) "Public record" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except nonidentifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under the provisions of this act. Nothing herein authorizes or requires the disclosure of those records where the public body, prior to January 20, 1987, by a favorable vote of three-fourths of the membership, taken after receipt of a written request, concluded that the public interest was best served by not disclosing them. Nothing herein authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of the institutions required to be made by law.

(d) "Meeting" means the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.

(e) "Quorum" unless otherwise defined by applicable law means a simple majority of the constituent membership of a public body.

§30-4-30. Right to inspect or copy public records; fees; notification as to public availability of records.

(a) Any person has a right to inspect or copy any public record of a public body, except as otherwise provided by §30-4-40, in accordance with reasonable rules concerning time and place of access.

(b) The public body may establish and collect fees not to exceed the actual cost of searching for or making copies of records. Fees charged by a public body must be uniform for copies of the same record or document. However, members of the General Assembly may receive copies of records or documents at no charge from public bodies when their request relates to their legislative duties. Such records shall be furnished at the lowest possible cost to the person requesting the records. Records shall be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for such public body to provide the records in such form. Documents may be furnished when appropriate without charge or at a reduced charge where the agency 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. Fees shall not be charged for examination and review to determine if such documents are subject to disclosure. Nothing in this chapter shall prevent the custodian of the public records from charging a reasonable hourly rate for making records available to the public nor requiring a reasonable deposit of such costs prior to searching for or making copies of the records.

(c) Each public body, upon written request for records made under this chapter, shall within fifteen days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of any such request notify the person making such request of its determination and the reasons therefor. Such a determination shall constitute the final opinion of the public body as to the public availability of the requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the fifteen days allowed herein, the request must be considered approved.

§30-4-40. Matters exempt from disclosure.

(a) The following matters are exempt from disclosure under the provisions of this Chapter;

(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential; and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information. Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing studies, and evaluations and other materials which contain references to potential customers, competitive information, or evaluation.

(2) Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy, including, but not limited to, information as to gross receipts contained in applications for business licenses.

(3) Records of law enforcement and public safety agencies not otherwise available by law that were compiled in the process of detecting and investigating crime if the disclosure of the information would harm the agency by:

- (A) Disclosing identity of informants not otherwise known;
- (B) The premature release of information to be used in a prospective law enforcement action;
- (C) Disclosing investigatory techniques not otherwise known outside the government;
- (D) By endangering the life, health, or property of any person.

(4) Matters specifically exempted from disclosure by statute or law.

(5) Documents of and documents incidental to proposed contractual arrangements and documents of and documents incidental to proposed sales or purchases of property.

(6) All compensation paid by public bodies except as follows:

- (A) For those persons receiving compensation of fifty thousand dollars or more annually, for all part-time employees, for any other persons who are paid honoraria or other compensation for special appearances, performances or the like, and for employees at the level of agency or department head, the exact compensation of each person or employee;
- (B) For classified and unclassified employees, including contract instructional employees, not subject to item (A) above who receive compensation between, but not including, thirty thousand dollars and fifty thousand dollars annually, the compensation level within a range of four thousand dollars, such ranges to commence at thirty thousand dollars and increase in increments of four thousand dollars;
- (C) For classified employees not subject to item (A) above who receive compensation of thirty thousand dollars or less annually, the salary schedule showing the compensation range for that classification including longevity steps, where applicable;

- (D) For unclassified employees, including contract instructional employees, not subject to item (A) above who receive compensation of thirty thousand dollars or less annually, the compensation level within a range of four thousand dollars, such ranges to commence at two thousand dollars and increase in increments of four thousand dollars.
- (E) For purposes of this subsection (6), "agency head" or "department head" means any person who has authority and responsibility for any department, of any institution, board, commission, council, division, bureau, center, school, hospital, or other facility that is a unit of a public body.

(7) Correspondence or work product of legal counsel for a public body and any other material that would violate attorney-client relationships.

(8) Memoranda, correspondence, and working papers in the possession of individual members of the General Assembly or their immediate staffs; however, nothing herein may be construed as limiting or restricting public access to source documents or records, factual data or summaries of factual data, papers, minutes, or reports otherwise considered to be public information under the provisions of this Chapter and not specifically exempted by any other provisions of this Chapter.

(9) Memoranda, correspondence, documents, and working papers relative to efforts or activities of a public body to attract business or industry to invest within South Carolina.

(10) Any standards used or to be used by the South Carolina Revenue and Taxation for the selection of returns for examination, or data used or to be used for determining such standards, if the Commission determines that such disclosure would seriously impair assessment, collection, or enforcement under the tax laws of this State.

(11) Information relative to the identity of the maker of a gift to a public body if the maker specifies that his making of the gift must be anonymous and that his identity must not be revealed as a condition of making the gift. For the purposes of this item, "gift to a public body" includes, but is not limited to, gifts to any of the state-supported colleges or universities and museums. With respect to the gifts, only information which identifies the maker may be exempt from disclosure. If the maker of any gift or any member of his immediate family has any business transaction with the recipient of the gift within three years before or after the gift is made, the identity of the maker is not exempt from disclosure.

(b) If any public record contains material which is not exempt under subsection (a) of this section, the public body shall separate the exempt and nonexempt material available in accordance with the requirements of this Chapter.

§30-4-50. Certain matters declared public information.

a. Without limiting the meaning of other Sections of this Chapter, the following categories of information are specifically made public information subject to the restrictions and limitations of §30-4-20, §30-4-40 and §30-4-70 of this Chapter:

(1) The names, sex, race, title and dates of employment of all employees and officers of public bodies;

(2) Administrative staff manuals and instructions to staff that affect a member of the public;

(3) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(4) Those statements of policy and interpretations of policy, statute and the Constitution which have been adopted by the public body;

(5) Written planning policies and goals and final planning decisions;

(6) Information in or taken from any account, voucher or contract dealing with the receipt or expenditure of public or other funds by public bodies;

(7) The minutes of all proceedings of all public bodies and all votes at such proceedings, with the exception of all such minutes and votes taken at meetings closed to the public pursuant to 30-4-70;

(8) Incident reports which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed. Where an incident report contains information exempt as otherwise provided by law, the law enforcement agency may delete that information from the incident report.

(9) Statistical and other empirical findings considered by the Legislative Audit Council in the development of an audit report.

b. No information contained in a police incident report or in an employee salary schedule revealed in response to a request pursuant to this chapter may be utilized for commercial solicitation. Also, the home addresses and home telephone numbers of employees and officers of public bodies revealed in response to a request pursuant to this chapter may not be utilized for commercial solicitation. However, this provision must not be interpreted to restrict access by the public and press to information contained in public records.

§30-4-60. Meetings of public bodies shall be open.

Every meeting of all public bodies shall be open to the public unless closed pursuant to §30-4-70 of this Chapter.

§30-4-70. Meetings which may be closed; procedure; circumvention of chapter; disruption of meeting; executive sessions of General Assembly.

(a) A public body may hold a meeting closed to the public for one or more of the following reasons:

(1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body; however, if an adversary hearing involving the employee or client, is held such employee or client has the right to demand that the hearing be conducted publicly. Nothing contained in this item shall prevent the public body, in its discretion, from deleting the names of the other employees or clients whose records are submitted for use at the hearing.

(2) Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against said agency of a claim.

(3) Discussion regarding the development of security personnel or devices.

(4) Investigative proceedings regarding allegations of criminal misconduct.

(5) Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body.

(6) Prior to going into executive session the public agency shall vote in public on the question and when such vote is favorable the presiding officer shall announce the specific purpose of the executive session. No formal action may be taken in executive session. As used in this item 'formal action' means a recorded vote committing the body concerned to a specific course of action. No vote may be taken in executive session.

(b) No chance meeting, social meeting, or electronic communication may be used in circumvention of the spirit of requirements of this chapter to act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(c) This chapter does not prohibit the removal of any person who wilfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised.

(d) Sessions of the General Assembly may enter into executive sessions authorized by the Constitution of this State and rules adopted pursuant thereto.

§30-4-80. Notice of Meeting of Public Bodies.

(a) All public bodies, except as provided in subsections (b) and (c) of this section, must give written public notice of their regular meetings at the beginning of each calendar year. The notice must include the dates, times, and places of such meetings. Agendas, if any, for regularly scheduled meetings must be posted on a bulletin board at the office or meeting place of the public body at least twenty-four hours prior to such meetings. All public bodies must post on such bulletin board public notice for any called, special, or rescheduled meetings. Such notice must be posted as early as is practicable but not later than twenty-four hours before the meeting. The notice must include the agenda, date, time, and place of the meeting. This requirement does not apply to emergency meetings of public bodies.

(b) Legislative committees must post their meeting times during weeks of the regular session of the General Assembly and must comply with the provisions for notice of special meetings during those weeks when the General Assembly is not in session. Subcommittees of standing legislative committees must give notice during weeks of the legislative session only if it is practicable to do so.

(c) Subcommittees, other than legislative subcommittees, of committees required to give notice under subsection (a), must make reasonable and timely efforts to give notice of their meetings.

(d) Written public notice must include but need not be limited to posting a copy of the notice at the principle office of the public body holding the meeting or, if no such office exists, at the building in which the meeting is to be held.

(e) All public bodies shall notify persons or organizations, local news media, or such other news media as may request notification of the times, dates, places, and agenda of all public meetings, whether scheduled, rescheduled, or called, and the efforts made to comply with this requirement must be noted in the minutes of the meetings.

§30-4-90. Minutes of Meetings of Public Bodies.

(a) All public bodies shall keep written minutes of all of their public meetings. Such minutes shall include but need not be limited to:

(1) The date, time, and place of the meeting.

(2) The members of the public body recorded as either present or absent.



(3) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken.

(4) Any other information that any member of the public body requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within a reasonable time after the meeting except where such disclosures would be inconsistent with §30-4-70 of this chapter.

(c) All or any part of a meeting of a public body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction, except when a meeting is closed pursuant to §30-4-70 of this chapter, provided that in so recording there is no active interference with the conduct of the meeting. Provided, further, that the public body shall not be required to furnish recording facilities or equipment.

§30-4-100. Injunctive Relief; Costs and Attorney's Fees.

(a) Any citizen of the State may apply to the circuit court for either or both a declaratory judgment and injunctive relief to enforce the provisions of this chapter in appropriate cases as long as such application is made no later than one year following the date on which the alleged violation occurs or one year after a public vote in public session, whichever comes later. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(b) If a person or entity seeking such relief prevails, he or it may be awarded reasonable attorney fees and other costs of litigation. If such person or entity prevails in part, the court may in its discretion award him or it reasonable attorney fees or an appropriate portion thereof.

§30-4-110. Penalties.

Any person or group of persons who willfully violates the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned for not more than thirty days for the first offense, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense and shall be fined three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense.

(Editor's Note. This reproduction is from the Code of Laws of South Carolina published by the Lawyers Cooperative Publishing Company, Rochester, New York. It should be noted that annotations, case notes, history of sections, opinions of the Attorney General and research references have not been included above. The reader is referred to the parent volumes for that data.)

APPENDIX B

SAMPLE ORDINANCE FORM

SAMPLE ORDINANCE FORM

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO CHANGE THE WATER RATES  
OF THE TOWN OF CHESTERFIELD, S. C.

IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF CHESTERFIELD, SOUTH CAROLINA, THAT:

SECTION 1. Chapter 17, Section 205.2 of the Town Code of Chesterfield is amended hereby by deleting said section in its entirety and inserting in lieu thereof a new section which shall read as follows:

17.205.2. WATER RATES.

(Insert here the new rates. Follow the outline in Section 17.205.2 of this code.)

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of inconsistency.

SECTION 3. This ordinance shall become effective upon its adoption. (Note: If a specified date is selected as the effective date, insert that particular date in this section.)

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_

First Reading \_\_\_\_\_

\_\_\_\_\_  
Mayor

Second Reading \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Town Clerk

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EDITOR'S NOTE:

This is a sample ordinance to illustrate one way of amending this code. The amended section has been chosen arbitrarily, and it is not to be considered as official action of the town.

On the following page of this appendix, additional suggestions are listed for the guidance and convenience of the Town Clerk when new ordinances are to be considered.

All ordinances should have a number and should indicate the particular section of the code to be amended, either by amending a section, deleting a section (as in the above example) or adding a completely new section.

(See next page for additional comments.)

ADDITIONAL NOTES TO BE USED AS GUIDANCE FOR AMENDMENTS TO THIS CODE:

1. Some municipalities prefer to repeal the entire amended section and have it retyped in its entirety to avoid future confusion or misunderstanding as to the intent of Council. Others prefer the "short version", as above. This is especially true if the amended section is lengthy. Either way is local choice.
2. If a date other than that of second reading is to be the effective date, it should be inserted accordingly as a part of Section 3 (of the sample ordinance) or the appropriate section number in the amending ordinance. Example: "effective on October 1, 1982."
3. More space than that shown in the sample ordinance can be utilized between sections, the date of readings and the signatures of the Mayor and Clerk to space it more aesthetically on the page.
4. Upon adoption of the ordinance, the original copy, with signatures, should be placed in the "Ordinance Book" (as discussed in Chapter 2, Section 2.115, this code).
5. Also upon adoption, the official copy of the code should be amended accordingly and copies reproduced and distributed to the holders of the code and inserted in any extra copies which have not been distributed, to keep all copies current. The Clerk should retain a list of all persons to whom a code has been distributed so that they may received copies of future amendments. Such amendments are called "Supplements."
6. When the code is amended, each change should be noted by Supplement number at the bottom of the amended page, left hand corner, to denote the change. Example: Supplement #1, Supplement #2, etc.
7. Such changes should be noted also in the general Table of Contents, chapter Table of Contents and the Index, as appropriate. Maintaining a chronological list of all supplements in the "Ordinance Book" by date of supplement will prove helpful for future reference.
8. For EMERGENCY ORDINANCES, see Sections 2.110 and 2.117.c of this code.
9. Amending or repealing ordinances should be noted on the original copy of the ordinance repealed or amended, as required by law and as codified in Section 2.116 of this code.
10. As to updating this code, some municipalities prefer to do so as amendments are made; others prefer doing so on a quarterly, semi-annual or annual basis. This code requires an annual update, but if a different updating schedule is preferred, subsequent to the adoption of this code, it should be amended accordingly. (See Section 2.111 of this code.)

APPENDIX C

EXCERPT

CODE OF LAWS OF SOUTH CAROLINA - 1976

CHAPTER 9

**Mayor-Council Form of Government**

**SEC.**

**5-9-10.** Applicability of Chapter 7.

**5-9-20.** Structure of mayor-council form of government; election of council members.

**5-9-30.** Responsibilities and powers of mayor.

**5-9-40.** Establishment of municipal departments, offices and agencies by council; employment of administrator to assist mayor; offices and agencies under direction of mayor administered by officer appointed by mayor.

**§ 5-9-10. Applicability of Chapter 7.**

Except as specifically provided for in this chapter, the structure, organization, powers, duties, functions and responsibilities of municipal government under the mayor-council form shall be as prescribed in Chapter 7.

**HISTORY:** 1962 Code § 47-60; 1975 (59) 692.

**§ 5-9-20. Structure of mayor-council form of government; election of council members.**

(a) Under the mayor-council form of government there shall be a municipal council composed of a mayor and four, six, eight, or twelve council members.

(b) The members of council shall be elected in accordance with Chapter 15.

**HISTORY:** 1962 Code § 47-61; 1975 (59) 692.

**§ 5-9-30. Responsibilities and powers of mayor.**

The mayor shall be the chief administrative officer of the municipality. He shall be responsible to the council for the administration of all city affairs placed in his charge by or under Chapters 1 through 17. He shall have the following powers and duties:

(1) to appoint and, when he deems it necessary for the good of the municipality, suspend or remove all municipal employees and appointive administrative officers provided for by or under Chapters 1 through 17, except as otherwise provided by law, or personnel rules adopted pursuant to Chapters 1 through 17. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;

## MAYOR-COUNCIL FORM

§ 5-9-40

(2) to direct and supervise the administration of all departments, offices and agencies of the municipality except as otherwise provided by Chapters 1 through 17;

(3) to preside at meetings of the council and vote as other councilmen;

(4) to act to insure that all laws, provisions of Chapters 1 through 17 and ordinances of the council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed;

(5) to prepare and submit the annual budget and capital program to the council;

(6) to submit to the council and make available to the public a complete report on the finances and administrative activities of the municipality as of the end of each fiscal year; and

(7) to make such other reports as the council may require concerning the operations of municipal departments, offices and agencies subject to his direction and supervision.

**HISTORY:** 1962 Code § 47-62; 1975 (59) 692.

**Cross references—**

As to the Civil Service Commission, see §§ 5-19-10 to 5-19-300.

**Research and Practice References—**

56 Am Jur 2d, Municipal Corporations, Counties, and Other Political Subdivisions § 139.

62 CJS, Municipal Corporations § 543.

**§ 5-9-40. Establishment of municipal departments, offices and agencies by council; employment of administrator to assist mayor; offices and agencies under direction of mayor administered by officer appointed by mayor.**

The council may establish municipal departments, offices, and agencies in addition to those created by Chapters 1 through 17 and may prescribe the functions of all departments, offices and agencies, except that no function assigned by law to a particular department, office or agency may be discontinued or assigned to any other agency. The mayor and council may employ an administrator to assist the mayor in his office.

All departments, offices and agencies under the direction and supervision of the mayor shall be administered by an officer appointed by and subject to the direction and supervision of the mayor.

**HISTORY:** 1962 Code § 47-63; 1975 (59) 692.

**Research and Practice References—**

56 Am Jur 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 151-154.

NOTES.

A 1976 amendment substituted "not less than four" for "four, six, eight, or twelve" in subsection (a) of Section 5-9-20.

A 1976 amendment added a new paragraph to Section 5-9-40, as follows:

The council shall adopt an annual budget for the operation of the municipality and capital improvements.