

RESOLUTION

A RESOLUTION ADOPTING A POLICY OF THE NEWBURY COUNTY WATER AND SEWER AUTHORITY REGARDING REQUESTS FOR PUBLIC RECORDS UNDER THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT; AND OTHER MATTERS RELATED THERETO.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Newberry County Water and Sewer Authority (the “*Board*”), the governing body of the Newberry County Water and Sewer Authority (“*NCWSA*”) in a meeting duly assembled as follows:

Section 1 Findings. The Board hereby makes the following findings of fact in connection with the adoption of this resolution (this “*Resolution*”):

a. The Board 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.

b. In order to ensure that NCWSA conducts public business in an open and public manner, it shall be the policy of NCWSA 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.

c. The Board has determined that a formal policy regarding requests for access to public records under FOIA, including a form to be used for the submission of requests and a certification of fulfilment of said requests, should be adopted to provide the public and NCWSA staff and officials with clear requirements and practices regarding NCWSA responsibilities under FOIA.

Section 2 Adoption. In accordance with the findings above, the Board hereby adopts its Policy Regarding Requests for Public Records Under the Freedom of Information Act (the “*FOIA Policy*”), a copy of which is attached hereto as **Exhibit A**. The FOIA Policy includes a form to be used for the submission of requests and a certification of fulfilment for requests under FOIA.

Section 3 Fee Schedule. In adopting the FOIA Policy, the Board has determined that the fee schedule for staff time and copies included in the FOIA Policy is an accurate reflection of the actual cost of searching for and making copies of records. The schedule has been duly approved by the terms of this Resolution but may be updated in the reasonable discretion of the Board by subsequent resolution or by the approval of its annual budget.

Section 4 Exemptions. In approving this Resolution and the FOIA Policy, the Board expressly adopts any and all exemptions, restrictions and limitations from disclosure contained within FOIA as may be amended from time to time, and any additional exemptions, restrictions or limitations from disclosure that may be provided for now or in the future under South Carolina or federal law.

Section 5 Effective Date. The FOIA Policy is effective immediately upon the adoption of this Resolution.

DONE AND ADOPTED THIS 19th day of January 2023.

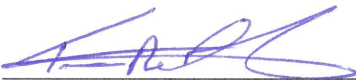
**NEWBERRY COUNTY WATER AND
SEWER AUTHORITY**

(SEAL)



Chairman, Board of Directors

ATTEST:



Secretary, Board of Directors

EXHIBIT A
FOIA POLICY

NEWBERRY COUNTY WATER AND SEWER AUTHORITY
POLICY REGARDING REQUESTS FOR PUBLIC RECORDS
UNDER THE FREEDOM OF INFORMATION ACT

Policy Statement: The Board of Directors (the “**Board**”) of the Newberry County Water and Sewer Authority (“**NCWSA**”) 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 NCWSA conducts public business in an open and public manner, it shall be the policy of NCWSA 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, in regards to the processing of 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 13903 C.R. Koon Hwy, Newberry, South Carolina 29108 (ii) by mail to Newberry County Water and Sewer Authority, 13903 C.R. Koon Hwy, Newberry, South Carolina 29108 or (iii) by electronic mail. Ideally, requests shall be made using the FOIA Request Form (the “**Request Form**”) provided by NCWSA 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. If a request is 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.

Requests to inspect the following public records need not be in writing provided the requestor appears at the appropriate NCWSA office in-person and within normal NCWSA business hours:

1. Minutes of all public meetings of NCWSA for the preceding six (6) months;
2. Reports from the preceding fourteen (14) days which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed (with the exception of records regarding juveniles);
3. Documents identifying persons confined in any jail, detention center, or prison for the preceding three (3) months (with the exception of records regarding juveniles); and
4. Documents produced by NCWSA or its agent that were distributed to or reviewed by a member of the public body during a public meeting for the preceding six (6) months.

Processing FOIA Requests: Where any NCWSA employee receives any written request for public records, the request should immediately be stamped with the date of receipt and delivered to NCWSA General Manager (the “**FOIA Officer**”). The FOIA Officer should evaluate FOIA requests based upon the statutory requirements of FOIA with regards to 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 FOIA Officer to decide not to disclose the requested records, the FOIA Officer should consult with an attorney (as retained by NCWSA) to determine if the exemption applies and whether NCWSA should decline to disclose the records based upon the exemption.

Initial Response Deadlines: The FOIA Officer 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 NCWSA 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 NCWSA 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, NCWSA shall furnish the records within the time frames outlined below, as measured from the date of initial determination 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. NCWSA will not create new records, nor summarize existing records. Requested records will be released in the format most convenient to NCWSA. NCWSA may, in its discretion, create electronic records where they do not otherwise exist.

Records Exempt from Disclosure: NCWSA 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 FOIA Officer, consulting with an attorney (as may be necessary), shall determine whether an exemption to the disclosure requirements of FOIA applies. Where an exemption, restriction, or limitation applies, the FOIA Officer 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 must be redacted and requested records shall otherwise be disclosed. NCWSA may request for a hearing before the Circuit Court of Newberry 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.

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: Pursuant to Section 30-4-30(B) of FOIA, the Board has established the fee schedule below, which must at all times be made available on NCWSA's website. The charges set forth therein are no greater than, and in some instances may be less than, the actual cost to NCWSA of searching for and making copies of requested public records. In general, costs for staff time necessary to respond to a FOIA request may not exceed the prorated hourly salary of the lowest cost employee of NCWSA who, based upon the advice of the FOIA Officer, 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, NCWSA may charge a fee for cost of staff time to transfer the document to electronic format and the actual cost to NCWSA for electronic media. Where it is anticipated that the staff time necessary to comply with a request may exceed five 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. Pursuant to Section 30-4-30(B) of FOIA, the Board has determined that it is in the public interest to waive or reduce the fees and charges with respect to certain types of requesting entities because furnishing information to these types of entities primarily benefits the general public, and has, therefore, incorporated such fee reductions or waivers into the fee schedule below.

Payments will be in the form of either a certified check, bank draft, or a money order made payable to NCWSA. Payments can be mailed to NCWSA, 13903 C.R. Koon Hwy, Newberry, South Carolina 29108 or made in person at 13903 C.R. Koon Hwy, Newberry, South Carolina 29108.

Prohibition on Commercial Solicitation Use: Knowingly obtaining or using personal information obtained from NCWSA for commercial solicitation is strictly prohibited. The measure employed by NCWSA 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 NCWSA, 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 NCWSA shall include a Certification of FOIA Fulfillment (“*Certification*”), a copy of which is attached hereto. The Certification will be signed by NCWSA 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 NCWSA 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

<u>Description</u>	<u>Charge</u>
Commercial Use Requesters	Search and Review: \$20.00 per hour Duplication: \$0.25 per page
Education & Non-Commercial Scientific Institutions	Search and Review: No Fee Duplication: \$0.25 per page
Representatives of the News Media	Search and Review: No Fee Duplication: \$0.25 per page
All Other Requesters	Search and Review: \$20.00 per hour Duplication: \$0.25 per page
Charge for special services or materials, including, but not limited to: document certification (\$10.00 per document), shipping, employee transportation, contractor duplication, video tape, computer disk, and computer programming and production.	Actual cost to NCWSA
Deposit for anticipated or apparent staff time exceeding 5 hours	1/4 of estimated costs

Newberry County Water and Sewer Authority
13903 C.R. Koon Hwy, Newberry, South Carolina 29108
Phone: (803) 276-7020

FREEDOM OF INFORMATION ACT REQUEST FORM

The Newberry County Water and Sewer Authority (the "NCWSA") 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 ("FOIA") shall be made using this form. This form must be signed and submitted either: (i) in person at 13903 C.R. Koon Hwy, Newberry, South Carolina 29108 (ii) by mail to NCWSA, 13903 C.R. Koon Hwy, Newberry, South Carolina 29108 or (iii) by electronic mail to the FOIA Officer. Fees may be required. No faxed requests will be accepted.

NAME: _____ DATE OF REQUEST: _____
 ADDRESS: _____
 NCWSA: _____ STATE: _____ ZIP: _____
 PHONE NUMBER: _____ EMAIL: _____

I, the undersigned, agree to pay the charges set by the fee schedule below for the services and copies I have requested.

SIGNATURE: _____

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

Section 30-4-30(B) of FOIA, authorizes NCWSA, as a public body, to charge and collect fees for the actual costs of responding to requests for public information. Under the Policy, NCWSA has duly adopted the fee schedule set forth below for copies and for staff time in searching for and providing requested information. A deposit of one quarter of the estimated cost to respond to a request is required for requests that are expected to require greater than five (5) hours of staff time.

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 NCWSA 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. MY FILING OF THIS REQUEST CONSTITUTES ACKNOWLEDGMENT OF THIS PROHIBITION.

Fee Schedule for Staff Time and Copies

Description	Charge
Commercial Use Requesters	Search and Review: \$20.00 per hour Duplication: \$0.25 per page
Education & Non-Commercial Scientific Institutions	Search and Review: No Fee Duplication: \$0.25 per page
Representatives of the News Media	Search and Review: No Fee Duplication: \$0.25 per page
All Other Requesters	Search and Review: \$20.00 per hour Duplication: \$0.25 per page
Charge for other media used to provide records for special services or materials, including, but not limited to: document certification (\$10.00 per document), shipping, employee transportation, contractor duplication, video tape, computer disk, and computer programming and production.	Actual cost to NCWSA
Deposit for anticipated or apparent staff time exceeding 5 hours	1/4 of estimated costs

FOR NCWSA 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: _____

CERTIFICATION OF FOIA FULFILLMENT
Newberry County Water and Sewer Authority (the "NCWSA")

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 NCWSA 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 NCWSA, certify that I have processed your request for access to public records pursuant to 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, and am making available to you via {[U.S. Mail], [E-mail], [in-person delivery]} (circle one) the requested records contained herein.
