

AN ORDINANCE
TO BE ENTITLED

AN ORDINANCE TO AMEND CHAPTER 3, GENERAL ADMINISTRATION, OF PART 2, GOVERNMENT AND ADMINISTRATION, OF THE CODE OF THE CITY OF SAVANNAH, GEORGIA BY ESTABLISHING A NEW ARTICLE E, OPEN RECORDS, TO COMPLY WITH O.C.G.A. § 50-18-70, *ET SEQ.*, “THE GEORGIA OPEN RECORDS LAW”, AS AMENDED; DESIGNATING AN “OPEN RECORDS OFFICER” AND “ASSISTANT OPEN RECORDS OFFICER(S)”; DEFINING THE DUTIES AND COMPENSATION THEREOF; PROVIDING FOR PUBLIC RECORDS REQUESTS TO BE SERVED UPON THE OPEN RECORDS OFFICER OR, IN THE OFFICER’S ABSENCE OR UNAVAILABILITY, UPON AN ASSISTANT OPEN RECORDS OFFICER; PROVIDING FOR NOTICE OF THE CITY’S OPEN RECORDS PROCEDURES; PROVIDING REASONABLE CHARGES FOR COMPLIANCE WITH PUBLIC RECORDS REQUESTS; TO REPEAL CONFLICTING PROVISIONS, ORDINANCES, OR PORTIONS THEREOF, IN CONFLICT WITH THE FOREGOING; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Georgia’s Open Records Law, O.C.G.A. § 50-18-70, *et seq.*, was amended in the 2012 Session of the General Assembly to enact new procedures for local government (defined therein as “agencies”) to comply with said law and to provide greater transparency in making public records available to the public for inspection and copying, which instills greater trust in government; and

WHEREAS, under the amended law, agencies may designate one or more “Open Records Officers” for the purpose of accepting service of written requests in order to assure timely response if made to the proper officer, who has been trained in the law and procedures for public records compliance; and

WHEREAS, the Mayor and Aldermen of the City of Savannah, a Georgia municipal corporation, is an “agency” as defined at O.C.G.A. § 50-18-70; and

WHEREAS, this City Council adopts as City public policy the statement of the General Assembly found at O.C.G.A. § 50-18-70(a);

BE IT ORDAINED by the Mayor and Aldermen of the City of Savannah, Georgia, in regular meeting of Council assembled, and pursuant to lawful authority thereof:

SECTION 1: That Chapter 3, General Administration, of Part 2, Government and Administration, be amended by adding a new Article E entitled Open Records Ordinance of the City of Savannah, which shall read as follows:

Article E. Open Records Ordinance of the City of Savannah.

Sec. 2-3077. Short Title.

This Article shall be known as the “Open Records Ordinance of the City of Savannah.”

Sec. 2-3078. Open Records Officer.

There is hereby created the office of Open Records Officer. The Clerk of Council is hereby designated as the City’s Open Records Officer; the Open Records Officer may designate, in writing, Assistant Open Records Officer(s) as required to perform the duties of his or her office. Before undertaking the duties of the office, the Open Records Officer and Assistant Open Records Officers shall take an oath, in writing, to diligently perform such duties. Compensation for the Open Records Officers and his or her Assistant Open Records Officers shall be initially recommended by the City Manager, approved by the City Council, and scheduled on the City’s Pay Classification Plan, as from time to time amended. The Open Records Officer shall serve at the pleasure of the Mayor and Aldermen.

Sec. 2-3079. Duties.

It shall be the duty of the Open Records Officer and his or her duly designated Assistant Open Records Officer(s) to accept written request to inspect and copy public records, pursuant to O.C.G.A. § 50-18-70, *et seq.*, and to produce to the requester all records responsive to a request within a reasonable amount of time not to exceed 3 business days from receipt of a request, unless the time for response is extended in accordance with law. No request shall be deemed filed until served upon the Open Records Officer, either by hand delivery to the Officer at 2 East Bay Street, Savannah, Georgia 31401; by certified United States mail, return receipt requested; by statutory overnight delivery; or by email to [clerkofcouncil@savannahga.gov]. Oral requests and requests, whether oral or in writing, served upon any other officer or employee of the City shall not be deemed filed, until the requester has filed his or her request, in writing, with the Open Records Officer. In the absence or unavailability of the Open Records Officer, an Assistant Open Records Officer shall perform the duties of the Open Records Officer. The absence or unavailability of a designated Open Records Officer shall not delay the City’s response to a properly served request.

Sec. 2-3080. Request Response.

Upon receipt of a request, it shall be the duty of the Open Records Officer to promptly ascertain the availability of all public records responsive to the request and to produce to the requester those records that can be located and produced within a reasonable amount of time, not to exceed 3 business days from receipt of a request. For purposes of computing the time within which a response must be made, the Open Records Officer shall not count the

business day on which a request is received, nor any intervening Saturday, Sunday, or designated holiday on which City officers are closed for general business. Upon intake of a request, the Open Records Officer shall stamp the request with the date and time of receipt, and initial the request. In any instance where the records are unavailable within 3 business days of the request, it shall be the duty of the Open Records Officer to provide the requester with a written description of such records and a timeline for when the records will be available for inspection and copying and to provide the responsive records to the requester as soon thereafter as practicable. Such response shall also contain a good faith estimate of the cost to the requester for the search, retrieval, redaction, and production and copying of records.

The Open Records Officer shall confer with every officer or department manager of the City, as necessary, to ascertain the existence of public records responsive to a request (including electronically-stored information), and it shall be the duty of every City officer and department manager to confer with and provide records, or true and correct copies of the originals thereof, to the Open Records Officer promptly, time being of the essence. Upon receipt of a public record responsive to a request, the Open Records Officer shall determine, in consultation with the City Attorney, if the record is exempt from disclosure, the written response by the Open Records Officer shall set forth the specific legal authority under which withholding of inspection of the record is claimed. The Open Records Officer shall maintain a log or other documentation of his or her due diligence to comply with a proper request.

Sec. 2-3081. Fees.

The Open Records Officer shall further have the duty to collect from a requester a reasonable charge for the search, retrieval, redaction, and production/copying of records, utilizing the most economical means available to identify and produce non-excluded records. The charge for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid full-time employee who, in the reasonable discretion of the Open Records Officer, has the necessary skill and training to perform the request; provided, however, no charge shall be made for the first quarter hour. In addition thereto, where certified copies of specific records are sought, the fees for the certified copies prescribe by law shall apply; otherwise, a fee for the copying of records shall not exceed 10¢ per page for letter or legal size documents or, in the case of other documents and electronic records, the actual cost of reproducing the document or media on which the records or media are produced. It shall be the right of the requester, at the time of inspection, to make photographic copies or other electronic reproductions of records, at his or her own expense, using suitable portable devices brought to the place of inspection. Whenever any person has requested to inspect and copy public records and received a written response estimating the cost of the search, retrieval, redaction, and production/copying of the records responsive to the request, and the City has actually incurred such costs but the requester fails to inspect or accept copies of the records, the Open Records Officer shall be authorized to collect such charges in any manner authorized by law.

In any instance in which the Open Records Officer has estimated costs in excess of \$25.00 for responding to a request, the Open Records Officer may defer the search, retrieval, redaction, and production/copying of the records until the requester has stated, in writing, his or her willingness to pay an amount equal to the estimate of costs. In any instance in which the estimated costs exceed \$500.00, the Open Records Officer shall insist, in writing, upon prepayment of the estimated costs prior to beginning the search, retrieval, redaction, production or copying of the records. In any instance in which a requester has outstanding costs owing to the City for a previous records request, the Open Records Officer shall insist upon prepayment of the outstanding costs and estimated costs prior to beginning search and retrieval.

Sec. 2-3082. Litigation.

Requests by civil litigants, or their counsel of record, in any ongoing civil action or administrative proceeding shall be made in writing and shall include the style of the action or proceeding, the names and addresses of all parties and, if a party is represented by counsel, the name, address, and telephone number of the party's attorney; a copy of the request shall be served by the requester upon all parties or their counsel of record in the action or proceeding contemporaneous to filing the written request with the Open Records Officer. The Open Records Officer shall make duplicate set(s) of records provided in response to the request available to all parties or their counsel for the cost of copies only, unless a party or its counsel elects not to receive the records and pay the copying charge. If the City is a party to the action or proceeding, a set of responses, shall be provided to counsel for the City at no charge.

Sec. 2-3083. Training.

The Open Records Officer and Assistant Open Records Officer(s) shall, prior to assuming the duties of their office, undergo a course of training in public records management and specifically compliance with the Georgia Open Records Law, O.C.G.A. § 50-18-70, *et seq.*, as approved by the City Manager, in consultation with the City Attorney. It shall be the responsibility of the Clerk of Council, as the City's Public Records Officer designated at Section 2-3078, at least annually, to conduct a workshop for City officers and department managers on the minimum requirements and procedures for public records management and open records disclosure, including the penalties or civil fines that may be imposed for violating Georgia's public records laws.

Sections 2-3084 through 2-3099 are hereby reserved.

SECTION 2: All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

SECTION 3: Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the Mayor and Aldermen.

SECTION 4: This ordinance shall become effective immediately upon its adoption by the Mayor and Aldermen.

ADOPTED AND APPROVED: _____

Van R. Johnson II, Mayor

Mark Massey, Clerk of Council