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Albemarle 'extended indefinitely' deadline to respond to public records requests



JESSIE HIGGINS

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County said it suspended FOIA law in response to COVID-19 pandemic

Albemarle County says it is no longer obligated to respond to public records requests within a given timeline.

The Board of Supervisors "extended indefinitely" the state-mandated deadlines for responding to Freedom of Information Act requests in response to the COVID-19 pandemic.

The move is alarming to watchdog groups that advocate for open government.

“They are still doing government business,” said Megan Rhyne, executive director of the Virginia Coalition for Open Government, a nonprofit that advocates for expanded access to government records, meetings and other proceedings.

“They’re still doing lots and lots of government business. And thank goodness. But there is no reason why citizens should lose the ability to keep track of ordinary government business.”

[Update: Attorneys at the University of Virginia’s First Amendment Clinic will represent Charlottesville Tomorrow in an effort to obtain unfilled public records from Albemarle County Public Schools.](#)

The county suspended the Freedom of Information Act — also called FOIA — deadline in an emergency ordinance passed March 27. That ordinance also gave them authority to conduct public meetings electronically during the COVID-19 emergency and broadly exempts them from following, “any deadline imposed by State law.”

“The purpose for the provision regarding responding to requests under the Freedom of Information Act was to ensure that the County was not in violation of the Act, and the protections it affords for certain records, in circumstances when it may have been impossible, unsafe, or unlawful for County employees to come into the County’s buildings to search for paper records in response to a Freedom of Information Act request during the COVID-19 disaster,” Albemarle County Attorney Greg Kamptner said in an emailed statement.

State FOIA law requires government agencies to respond to public records requests within five working days. It also expressly prohibits municipalities from undermining FOIA law.

Virginia Code [§ 2.2-3700 B](#), which sets out FOIA policy, says that: “Any ordinance adopted by a local governing body that conflicts with the provisions of this chapter shall be void.”

However, Kamptner said the county’s ordinance that sets aside the FOIA deadline was enacted under a different state law — Virginia Code [§ 15.2-1413](#). That code states:

“Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy attack or other disaster.”

“This situation appears to present a conflict of laws question,” Alan Gernhardt, the executive director of the Virginia Freedom of Information Advisory Council, said in an email. “I did some legal research on the matter, but I could not find any court decisions or opinions of the Attorney General that address either of the provisions quoted above. Unfortunately, as the statutory authority of this office is limited to FOIA matters, I cannot offer an opinion on whether the provisions of [§ 15.2-1413](#) control over the policy of FOIA.”

The office of Attorney General Mark Herring could not be reached for comment by the time of this publication.

The Freedom of Information Act was enacted federally in 1966. Virginia enacted its state VFOIA in 1968.

With some exceptions, the act guarantees access to government records and meetings. Its purpose is to ensure the public’s ability to view government actions and operations — this enables citizens to hold that government accountable.

But, without response deadlines, members of the public have no recourse if their records requests go unanswered.

This is especially worrying now, Virginia Coalition for Open Government’s Rhyne said, as governments at all levels are taking unprecedented actions in response to the coronavirus pandemic.

“These are extraordinary times,” Rhyne said. “There is no reason we as citizens should not have the same reliable access to review documents that show how our government is responding to this emergency.”

Albemarle is one of two counties in Virginia that Rhyne knows of that have suspended FOIA deadlines

Albemarle is one of two counties in Virginia that Rhyne knows of that have suspended FOIA deadlines. The other is Loudoun County, she said.

She's also heard anecdotally of school districts refusing to fill FOIA requests because their buildings are closed — although school districts continue to operate and are currently making critical decisions on if and how schools will reopen in the fall.

In response to a June 18 Charlottesville Tomorrow records request for emails regarding school resource officers, Albemarle County Public Schools said it's "time requirements for responding to FOIA requests have been waived."

The school district filled the request last week.

"The County has strived to respond to requests within the timelines established by the Act," Kamptner, the Albemarle County attorney, said in an email. "The introductory paragraph to the section of the Ordinance pertaining to [FOIA] deadlines includes the following: '[T]he Board of Supervisors and the County endeavor to the extent practicable to meet the deadlines established by State law and the County Code.'"

The city of Charlottesville continues to follow state FOIA deadlines.

State agencies are also maintaining the deadlines mandated by the act, the Virginia Freedom of Information Advisory Council's Gernhardt said.

Virginia law does not adjust the FOIA "tolling provision" during states of emergency, he said.



WRITTEN BY:
Jessie Higgins

Jessie Higgins joined Charlottesville Tomorrow as the lead reporter in June 2020. She has spent nearly 10 years in journalism, reporting for both local and national news organizations. She is a graduate of the University of Oregon's School of Journalism and Communication.

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The Albemarle County Office Building.

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Several requests have gone unfilled after Albemarle County waived state FOIA deadlines

Attorneys at the University of Virginia's First Amendment Clinic will represent Charlottesville Tomorrow in an effort to obtain public records from Albemarle County Public Schools

an effort to obtain public records from Albemarle County Public Schools.

Charlottesville Tomorrow on July 15 requested public documents from the school division regarding its reopening plans. Those requests have yet to be filled, though state law requires public bodies to respond to such requests within five working days, which was July 22.

The school division said in an email to Charlottesville Tomorrow that it would do its “very best to get this information to you as soon as possible,” but that it did not have to respond by the statutory deadline. The county [passed an emergency ordinance in March](#) declaring its offices are no longer obligated to respond to Freedom of Information Act requests within that state-mandated deadline.

[Read more about the county's ordinance here.](#)

The First Amendment Clinic said that Albemarle's “broad ordinance waiving FOIA deadlines” is not supported by the state law that they have said grants them authority.

“There are no emergency exceptions in [the Virginia Freedom of Information Act] that permit a public body to modify the time by which it must reply to VFOIA requests,” the clinic said in a letter to Albemarle County Public Schools.

The clinic sent the letter Wednesday, asking the school division to “comply with [its] statutory obligations.” The school division acknowledged it received the letter.

[See PDF of the letter at the bottom of this story.](#)

“The First Amendment Clinic is proud to represent Charlottesville Tomorrow as it pushes for access to vital public records that help inform the public on government activity,” said Jennifer Nelson, the co-director of the First Amendment Clinic. “Transparency is often most necessary when it's least convenient, and access to public records is absolutely essential during this ongoing time of crisis in our community.”

The Albemarle County Board of Supervisors waived FOIA deadlines as a part of a larger ordinance that gave them the authority to conduct public meetings electronically during the COVID-19 emergency. That ordinance also broadly exempts them from following “any deadline imposed by State law.”

Earlier this month, County Attorney Greg Kamptner sent Charlottesville Tomorrow a statement explaining the ordinance. It read:

The purpose for the provision regarding responding to requests under the Freedom of Information Act was to ensure that the County was not in violation of the Act, and the protections it affords for certain records, in circumstances when it may have been impossible, unsafe, or unlawful for County employees to come into the County's buildings to search for paper records in response to a Freedom of Information Act request during the COVID-19 disaster. The introductory paragraph to the section of the Ordinance pertaining to deadlines includes the following: “[T]he Board of Supervisors and the County endeavor to the extent practicable to meet the deadlines established by State law and the County Code.” Accordingly, the County has strived to respond to requests within the timelines established by the Act.

Kamptner said Virginia Code [§ 15.2-1413](#) gives the county the authority to set aside the FOIA deadline. That law reads: “Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy attack or other disaster.”

[An opinion of the state Attorney General's Office](#) cites § 15.2-1413 as giving localities authority to enact ordinances to preserve “continuity of government.” However, the opinion “emphasizes the ‘limits of authority’ conferred by Va. Code Ann. 15.2-1413, the ‘continuity of government’ provision, which requires that any ordinances enacted pursuant to its authority be ‘carefully limited in scope,’” the First Amendment Clinic's letter read.

“A blanket exemption from VFOIA's deadlines is unlikely to qualify as ‘carefully limited’ particularly in light of the fact that the vast majority of public bodies in Virginia, including the Governor's office and the Virginia Department of Health continue to process VFOIA requests in a timely fashion,” according to the letter.

Virginia's FOIA law says: "Any ordinance adopted by a local governing body that conflicts with the provisions of this chapter shall be void."

The Freedom of Information Act's purpose is to guarantee the public's access to government records and meetings. Any citizen can use the act to request — and be granted — any record created by a public body, with some exceptions.

This access ensures governments remain open to their citizens, and it gives those citizens a crucial tool to hold their government accountable. But, without deadlines, there is nothing to guarantee a records request will be filled.

"Virginia's Freedom of Information Act is extremely important," said Giles Morris, the executive director of Charlottesville Tomorrow. "It gives us all the right to see how our government is functioning, and, when necessary, hold it accountable. As a nonprofit media organization in this community, we believe it is our responsibility to protect that right for all Albemarle County residents, and we deeply appreciate UVA's First Amendment Clinic for working with us on this issue."



WRITTEN BY:
Jessie Higgins

Jessie Higgins joined Charlottesville Tomorrow as the lead reporter in June 2020. She has spent nearly 10 years in journalism, reporting for both

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Albemarle fills records request; ordinance waiving statutory deadline remains



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Greer Elementary School in Albemarle County.

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Albemarle County Public Schools has filled Charlottesville Tomorrow's requests for public records related to its school reopening plans — about two weeks after the state mandated deadline to fulfill Freedom of Information Act requests.

The documents came a week after the [University of Virginia's First Amendment Clinic](#) sent the school division a letter asking them to adhere to the state law.

“The statutory timeline for responding to [the Virginia Freedom of Information Act] requests is clear,” the letter, sent July. 29 on behalf of Charlottesville Tomorrow, said. “Any public body must respond within five work-days of receiving a request.”

The Albemarle school division said it did not need to meet the statutory FOIA deadline because the county’s [Board of Supervisors “extended indefinitely” the deadline in March](#) in response to the COVID-19 pandemic.

“The purpose for the provision regarding responding to requests under the Freedom of Information Act was to ensure that the County was not in violation of the Act, and the protections it affords for certain records, in circumstances when it may have been impossible, unsafe, or unlawful for County employees to come into the County’s buildings to search for paper records in response to a Freedom of Information Act request during the COVID-19 disaster,” County Attorney Greg Kamptner said in an email explaining the ordinance last month.

The filled requests — which included emails and written reopening plans — were all electronic documents.

The ordinance suspending FOIA deadlines in the county still stands.

The Freedom of Information Act’s purpose is to guarantee the public’s access to government records and meetings. Any citizen can use the act to request — and be granted — any record created by a public body, with some exceptions. This access ensures governments remain open to their citizens, and it gives those citizens a crucial tool to hold their government accountable.

Without response deadlines, there is nothing to guarantee a records request will be filled.

According to UVA’s First Amendment Clinic, a locality’s statutory VFOIA obligations “cannot be waived by an emergency ordinance.”

“There are no emergency exceptions in VFOIA that permit a public body to modify the time by which it must reply to VFOIA requests,” the clinic said in its letter to Albemarle County Public Schools.

All state public bodies and the majority of localities in Virginia — including the city of Charlottesville — continue to meet FOIA deadlines.



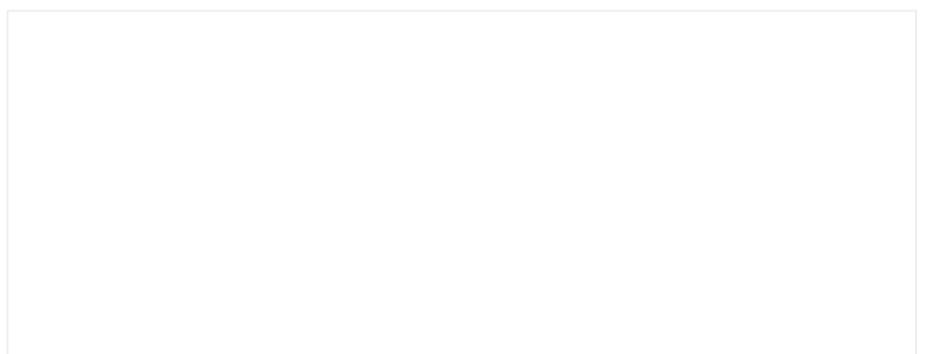
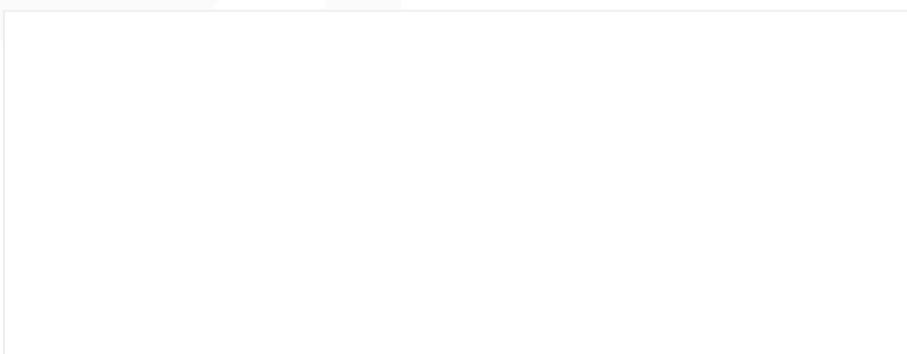
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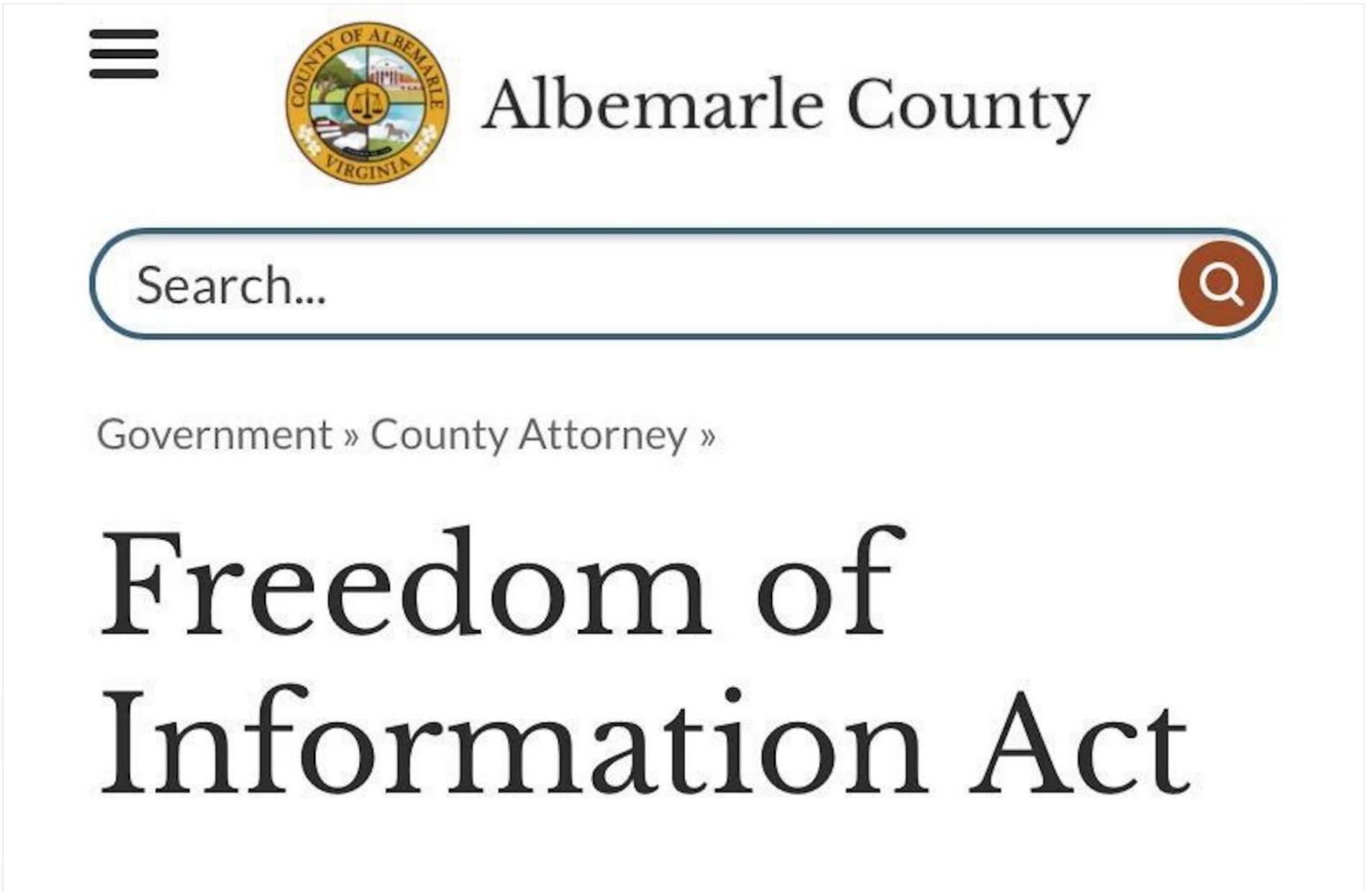
Albemarle extends ordinance waiving deadlines to respond to public records request



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County changes wording to the deadline "may be extended to the earliest date thereafter practicable"

Albemarle County says it still is not legally obligated to respond to all public records requests within Virginia's statutory deadline.

An [updated version of the county's ordinance](#) that defines how it will function during the COVID-19 pandemic extends a waiver of the Virginia Freedom of Information Act's response deadlines another six months.

The new “continuity of government during the COVID-19 disaster” ordinance, which includes the FOIA deadline waiver, will take effect Oct. 1.

The rule remains troubling to advocates for open government.

“I continue to disagree with the codification of a right to delay responding to FOIA requests,” said Megan Rhyne, executive director of the Virginia Coalition for Open Government, a nonprofit that advocates for expanded access to government records, meetings and other proceedings.

“Just about every other local government in Virginia, as well as state agencies, have made conscientious efforts to meet their statutory duties under FOIA.”

[Albemarle’s ordinance](#) states that “any deadline by which a response to a request for records under the Virginia Freedom of Information Act is due, and the time for which the records sought may be inspected or produced, may be extended to the earliest date thereafter practicable in order to respond to the request or allow any records to be inspected or produced.”

It added several “factors to be considered in determining whether the COVID-19 disaster prevents a deadline from being met.” They include illness preventing business, COVID-19 contamination closing public buildings and employees who are members of a “vulnerable population group” being unable to retrieve physical records.

The [original ordinance](#), which passed in March, “extended indefinitely” the statutory deadline.

[Read more about the Albemarle County’s original ordinance.](#)

“At the time that the original ordinance was drafted, we didn’t know what we were walking into,” Albemarle County Attorney Greg Kamptner told the county’s Board of Supervisors at its Wednesday meeting, in which they passed the new ordinance.

“We do know now,” he said. “We know that we can function. We know that while there may be some circumstances that can come up with meeting certain deadlines, we also know what we can do.”

Kamptner later added that: “There were some media reports [that] would lead someone to think, if they focused on the headlines in some of these media reports, that the county was not complying with FOIA, or that we were using the continuity of government ordinance as a way to not respond to FOIA requests. As it turns out, we’ve been able to meet the FOIA deadlines quite well.”

Albemarle has exceeded the state’s response deadlines on at least six FOIA requests, including four from Charlottesville Tomorrow.

On July 15, Charlottesville Tomorrow requested several planning documents and emails regarding reopening plans from Albemarle County Public Schools. The division responded that it was not obligated to return the request within any given timeframe. The state’s FOIA law requires a response within five business days.

Charlottesville Tomorrow then [partnered with the University of Virginia’s First Amendment Clinic](#) to fight for the records to be handed over in a reasonable timeframe.

A week after the state deadline passed, the Clinic sent Albemarle County Public Schools a letter asking that the request be filled, explaining that the county’s ordinance was unlawful. The school division [filled the requests](#) the following week.

“There are no emergency exceptions in [the Virginia Freedom of Information Act] that permit a public body to modify the time by which it must reply to VFOIA requests,” the clinic said in its letter.

[VFOIA](#) says: “Any ordinance adopted by a local governing body that conflicts with the provisions of this

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VFOIA says: "Any ordinance adopted by a local governing body that conflicts with the provisions of this chapter shall be void."

Kamptner told Charlottesville Tomorrow in July that the county enacted the ordinance using a different state law, which allows for governing bodies to "provide for continuity of government in case of enemy attack, etc. [That law](#) states:

Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy attack or other disaster.

After reading the county's updated FOIA ordinance, Gabe Rottman, the co-director of the First Amendment Clinic, said he continues to disagree with the county's position.

"VFOIA does not provide any authority to unilaterally waive deadlines, and while requesters are surely willing to negotiate when a request would present challenges because of COVID-19, government transparency is just as important, if not more so, during public health emergencies," he said.

The Freedom of Information Act provides municipalities an avenue to extend deadlines that they cannot reasonably meet. The act instructs such bodies to first "attempt to negotiate" with the requestors for more time.

If the requesters refuse to budge, the agency may "petition the appropriate court for additional time."

In March, the state's Freedom of Information Advisory Council sent out a statement to all local and state agencies advising them that a state of emergency did not change Virginia's public records laws.

"There is no specific tolling provision for states of emergency," the statement read. The council added that agencies should negotiate for more time or petition a court if needed.

"I would hope that under these circumstances requesters will be understanding in reaching such agreements," the statement concludes.

The Coalition of Open Government's Rhyme said that agencies across the state have used this approach successfully.

"I would encourage Albemarle County to take the same approach," she said. "I think they'd find that requesters would be more than sympathetic and willing to work with them to make sure government employees stay safe while also fulfilling FOIA's statutory requirements."



WRITTEN BY:
Jessie Higgins

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Attorney general says Albemarle's ordinance waiving state FOIA deadlines unlawful



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Albemarle County's waiver of state mandated response deadlines for public records requests violates Virginia state law, according to the state's attorney general.

In a three-page advisory [opinion released Monday](#), Mark Herring holds that state law "does not empower a locality to modify or indefinitely extend the deadlines for responding to requests for records set forth in ... the Virginia Freedom of Information Act. The time limits for responding to requests for records in VFOIA remain in place and must be complied with even during the current emergency."

An Albemarle County official was not available for comment Monday.

At the behest of Charlottesville Tomorrow and the [Virginia Coalition for Open Government](#), Del. Sally

At the behest of Charlottesville Tomorrow and the [Virginia Coalition for Open Government](#), Del. Sally Hudson, D-Charlottesville, in September requested Herring's review of Albemarle's ordinance. Only certain state and local officials may ask the attorney general for an opinion.

"I'm proud of our newsroom for pursuing the issue relentlessly and grateful to Del. Sally Hudson for bringing the issue the attention it deserves," Charlottesville Tomorrow Executive Director Giles Morris said Monday, after reading the attorney general's opinion. "Our democracy requires that the public has access to information about what our government is doing and why, and the crisis only makes that access more important."

Hudson was not available for comment Monday.

Virginia FOIA law requires public agencies respond to public records requests within five working days. Albemarle [first passed in March](#) an ordinance "extending indefinitely" that deadline. The extension was part of a larger ordinance that defined how the county would operate during the pandemic.

Albemarle [updated that ordinance](#) in September. The new ordinance, which took effect Oct. 1, changed the wording to say the deadline "may be extended to the earliest date thereafter practicable."

Since extending the deadline, the county has exceeded the state-mandated five-day response deadline on at least six FOIA requests, including four from Charlottesville Tomorrow.

Those four requests were made in July for planning documents and emails regarding Albemarle County Public Schools' reopening plans. After the deadline passed, Charlottesville Tomorrow solicited the help of [the University of Virginia's First Amendment Clinic](#) to fight for the records.

The Clinic sent the school division a letter asking that they fill the request. The letter explained why the county's ordinance was unlawful. The school division [filled the requests](#) the following week — but the ordinance waiving the deadline remained.

After learning of the attorney general's opinion, Ian Kalish, a legal fellow at the Reporters Committee for Freedom of the Press who helps teach at the Clinic, made the following statement:

Attorney General Herring has provided clear guidance preserving the right to access government records during the pandemic. VFOIA clearly mandates a timeline for the government to respond to records requests, and the statute does not allow for an indefinite suspension of this deadline. Public access to government records is just as important, if not more, in times of emergency, and this advisory opinion is an important step in protecting open government and transparency.

Albemarle County Attorney Greg Kamptner told Charlottesville Tomorrow in July that the county enacted the ordinance using authority given by a state law that allows for governing bodies to "provide for continuity of government in case of enemy attack, etc." [That law](#) states:

Notwithstanding any contrary provision of law, general or special, any locality may, by ordinance, provide a method to assure continuity in its government, in the event of an enemy attack or other disaster.

In his opinion, Herring notes that law does not give a locality "a general power to determine whether statutory directives imposed by the General Assembly constitute 'essential' or 'non-essential' functions, and then, on that basis, to suspend compliance with directives of state law that the locality deems 'non-essential.'"

Herring also said that the "General Assembly has emphasized that VFOIA 'shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government.' As this Office has previously explained, even during a state of emergency, 'the requirements of VFOIA, open government and transparency remain critically important.'"

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The Freedom of Information Act was enacted federally in 1966. Virginia enacted VFOIA in 1968.

With some exceptions, the act guarantees access to government records and meetings. Its purpose is to ensure the public’s ability to view government actions and operations — this enables citizens to hold that government accountable.

“I am pleased to see that the AG has taken the same view as the Virginia Coalition for Open Government has over the past six months,” said Megan Rhyne, executive director of VCOG, a nonprofit that advocates for expanded access to government records, meetings and other proceedings.

“It is important at a time when so many other interactions with government are compromised that the public can rely on the procedures laid out in FOIA to access government information. We’re grateful to all the localities and school districts that have worked very hard to meet their obligations under FOIA during these difficult times, and we are grateful to Delegate Hudson for bringing the question to the AG.”

At least one other Virginia county — Loudoun — has enacted [a similar ordinance waiving FOIA deadlines](#).



WRITTEN BY:
Jessie Higgins

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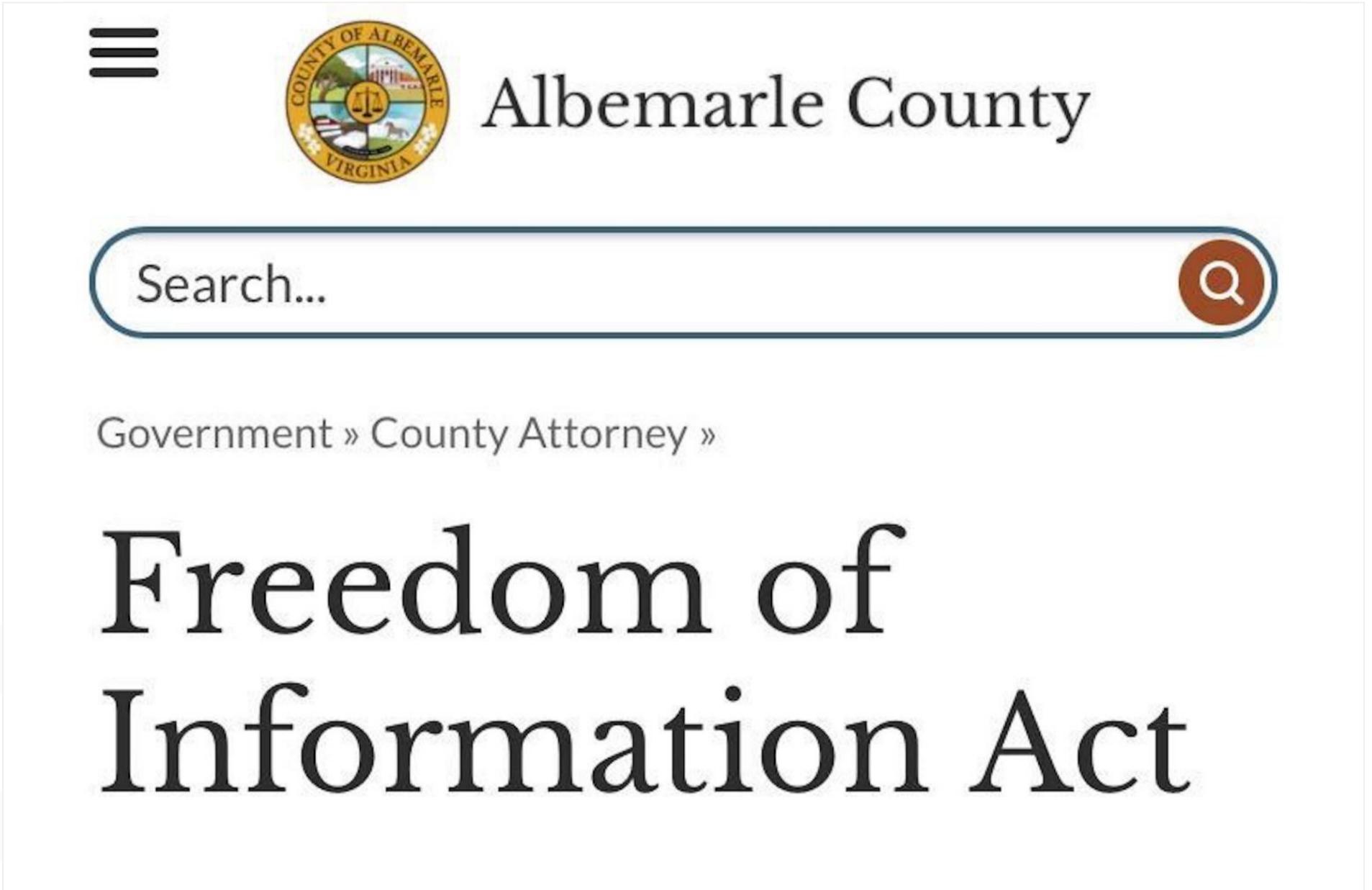
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It's unclear what Albemarle County intends to do with its ordinance waiving the state's public records request deadlines after Attorney General Mark Herring on Monday [said that such ordinances violate state law](#).

Albemarle County Attorney Greg Kampter said in a Thursday email that he was reviewing the attorney general's opinion and intended to "bring a recommendation to the Board of Supervisors on November 4."

The Board of Supervisors was "briefed by legal counsel" in a closed session meeting on Wednesday "regarding the Continuity of Government Ordinance" — which is the ordinance that contains the Virginia

regarding the Continuity of Government Ordinance — which is the ordinance that contains the Virginia Freedom of Information Act deadline waiver.

The most [recent version of that ordinance](#), which took effect Oct. 1, includes a provision that extends “to the earliest date thereafter practicable” the statutory five-day window to respond to FOIA requests. Earlier versions of that ordinance “extended indefinitely” the deadline.

According to Herring, state law does not give counties or other localities the power to modify those deadlines.

“The time limits for responding to requests for records in VFOIA remain in place and must be complied with even during the current emergency,” Herring wrote in his three-page advisory [opinion](#).

Advocates for open and transparent government celebrated the opinion as a win for public access this week.

Attorney general opinions are not legally binding, but they carry considerable weight, said Ashley Taylor Jr., a former deputy attorney general for Virginia.

Should a law be challenged in court, for example, a locality would face an uphill battle if its state’s attorney general had sided against them. Because of that, localities often follow their attorney general’s advice, Taylor said.

That doesn’t necessarily mean a local government has to remove an ordinance or law that their attorney general deems unlawful — Virginia does not require the repeal of unlawful acts. Such laws can only become a problem if the government tries to enforce them.

Albemarle could leave its FOIA ordinance unchanged and simply not use it.

If in the future a county agency uses the ordinance as a reason to not meet the state’s deadlines, the requester of public records in that case could challenge the county in court — and Monday’s opinion would be powerful evidence on their side.

“It’s an opinion with a lot of weight,” Taylor said. “But someone would still have to challenge the ordinance in court.”

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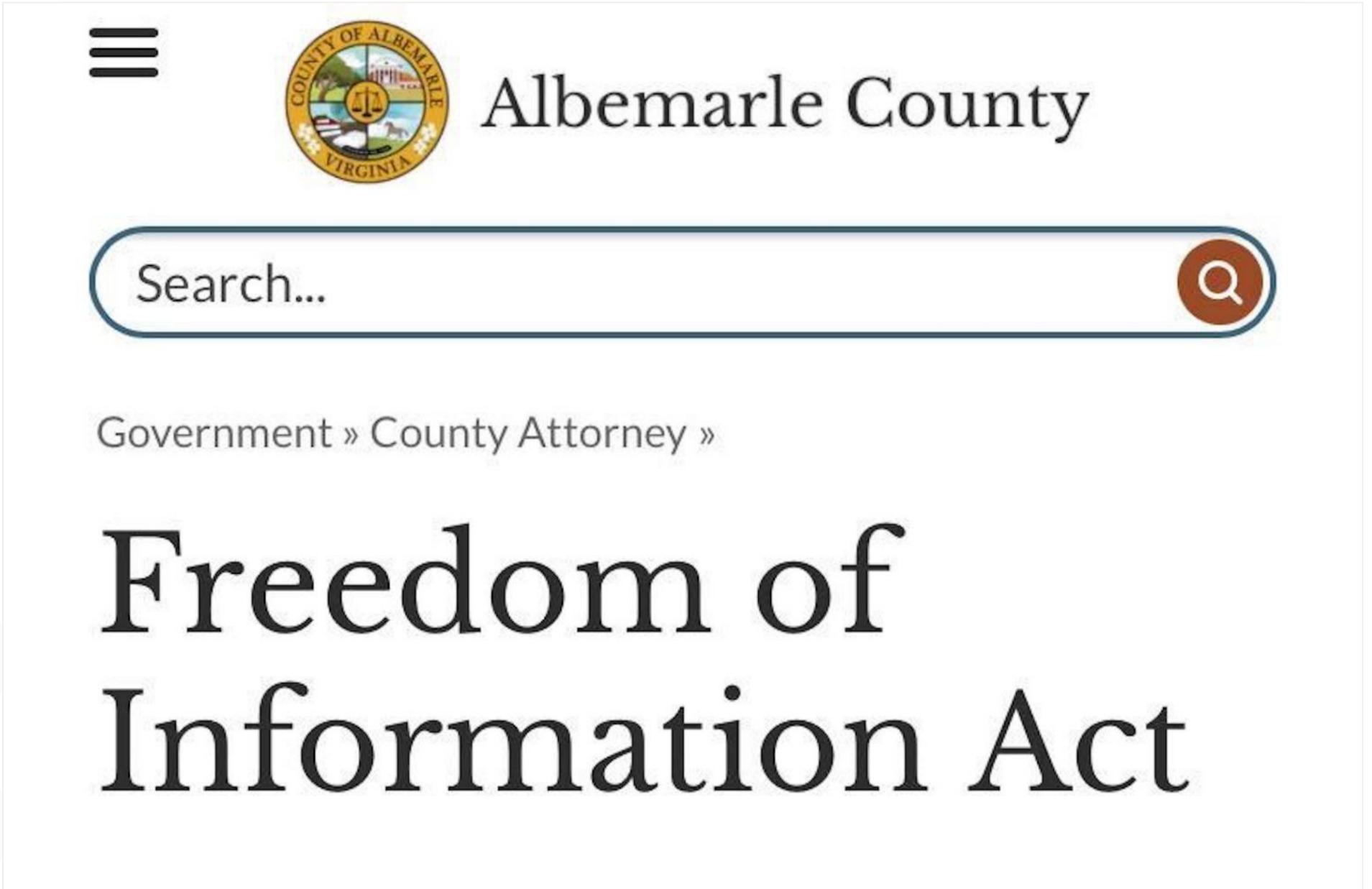
One month after the attorney general declared it unlawful, Albemarle removes ordinance that waived state FOIA deadlines



JESSIE HIGGINS

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Albemarle County's Board of Supervisors voted unanimously to repeal an ordinance that exempted it from meeting the state's Freedom of Information Act deadlines.

The board first passed the deadline waiver in March "given the uncertainty of what we would be facing" during the COVID-19 pandemic, Greg Kamptner, the county's attorney said at Wednesday's board meeting.

"Now that we are further down the line and unfortunately have pretty good experience working through this pandemic, staff is recommending that the deadline extensions for the FOIA requests be removed in

and this pandemic, staff is recommending that the deadline extensions for the FOIA requests be removed in their entirety," he said.

The county did not discuss publicly Attorney General Mark Herring's rebuke of its attempt to amend the state law. Herring declared Albemarle's ordinance unlawful in early October.

State law "does not empower a locality to modify or indefinitely extend the deadlines for responding to requests for records set forth in ... the Virginia Freedom of Information Act," Herring wrote in a three-page [advisory opinion](#). "The time limits for responding to requests for records in VFOIA remain in place and must be complied with even during the current emergency."

Herring gave the opinion after Del. Sally Hudson, D-Charlottesville, requested that he review Albemarle's ordinance. Hudson made the request at the behest of Charlottesville Tomorrow and the [Virginia Coalition for Open Government](#).

Days after the attorney general released his opinion, Kamptner told Charlottesville Tomorrow that he was reviewing it and intended to "bring a recommendation to the Board of Supervisors on November 4." That same week, the Board of Supervisors was "briefed by legal counsel" in a closed session meeting "regarding the Continuity of Government Ordinance" — which is the ordinance that contained the FOIA deadline waiver.

Kamptner made no mention of the attorney general opinion Wednesday while recommending the county remove the waiver.

The board's chair, Ned Gallaway, alluded to the decision briefly, saying: "There were a lot of things that the state gave some flexibility on, and it was just curious to me that this one was — probably for other reasons that practicality — was handed down from the attorney general, but I'll leave it at that."

At the meeting, Kamptner left open the possibility of enacting a future county ordinance that could adjust FOIA deadlines.

"If the pandemic conditions deteriorate, we can respond in a way that would allow a very specifically tailored ordinance to be put in place that would deal with the specific conditions of both the pandemic and the county's operations," he said.

Kamptner also told the board that since passing the ordinance, the county had always met the state deadline, or successfully negotiated with the requesters for extra time. In other words — they'd still followed the state's FOIA law.

VFOIA requires public agencies respond to public records requests within five working days. If they cannot produce a record in that time, they are allowed to request an additional seven days. If that is still not enough time, the law instructs them to negotiate with the requester for more time.

This did not happen, however, with at least four Charlottesville Tomorrow records requests.

On July 15, Charlottesville Tomorrow asked for planning documents and emails related to Albemarle County Public Schools' reopening plans. The school division responded simply that county ordinance exempted it from meeting the state's deadline. After two weeks with no other response, Charlottesville Tomorrow partnered with the University of Virginia's First Amendment Clinic to fight for the records.

The Clinic sent the school division a letter explaining that the county's ordinance was unlawful and asking that the requests be filled. The school division [filled the requests](#) the following week.

Supervisors Ann H. Mallek and Donna Price and Gallaway expressed support for the initial ordinance before voting to remove it Wednesday.

"I think it's gotten a little carried away in the way it's been perceived out in the community, but that's OK," Mallek said. "I'm in favor of these changes."

Price agreed, adding that: "I think it's important that our constituents recognize that the actions were taken towards the efficiency of government dealing with the pandemic and not in an effort to avoid

towards the efficiency of government dealing with the pandemic and not in an effort to avoid responsibility for responding.”

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