

The Rights of Requesters and the Responsibilities of the County of Rappahannock under the Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA), located at § 2.2-3700 *et seq.* of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of certain of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording - regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format - that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly. The exemptions from disclosure are set out in the Virginia Freedom of Information Act, Chapter 37 of Title 2.2 of the Code of Virginia (§2.2-3700 *et seq.*). Should the FOIA Officer determine that an exemption applies to all or part of your request, you will be notified by reference to the specific statutory exemption, as discussed below.

If you are a citizen of Virginia or a member of certain of the media, these are Your FOIA Rights

- You have the right to request to inspect **or** receive copies of public records, **or** both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA.

Making a Request for Records

- Only “citizens” of Virginia and certain members of the media are afforded rights under FOIA. You must establish you are one or the other in order to make a FOIA request. If you make your request as a member of the media, please contact the relevant FOIA Officer listed below to establish your rights under FOIA. If you make your request as a “citizen” of Virginia, you must provide us with your name and an address at which you actually reside in Virginia. We ask that you do this in writing in order to avoid any possibility of our incorrectly writing your name and address from an oral communication. You can use the form shown below to do this.
- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA. However, we ask that you make your request using the form included at the end of this document that is also available in the County Administrator’s Office, or it can be sent to you. This allows us to have your name and address, where and how you want our response communicated to you, a description of what you want, and when the time limits for our response begin to run. It also is used to establish in writing that you are a “citizen” of the Commonwealth and therefore entitled to rights under FOIA. However, we cannot refuse to respond to your FOIA request if you elect to not put it in writing.
- Your request must identify the records you are seeking with “reasonable specificity.” This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we can identify and locate the records that you are seeking.

- Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy **records**; it does not apply to a situation where you are asking general questions about the work of the County, nor does it require the County to create a record that does not exist.
- You may choose to receive electronic records in any format used by the County in the regular course of business. For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records.
- If we have questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.
- If The County must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.
- The reason behind your request for public records is irrelevant, and we cannot ask you why you want the records before we respond to your request. FOIA does, however, require you to provide your and legal address in order to verify you are a resident of Virginia.
- FOIA requires that the County make one of the following responses to your request within the five-day time period:
 - We provide you with the records that you have requested in their entirety.
 - We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
 - We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 - If it is practically impossible for the County to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before we go to court to ask for more time.
- If you are seeking records maintained by the Treasurer, the Commissioner of Revenue, the Sheriff, the Commonwealth's Attorney, the Clerk of Court, the Department of Social Services or the Building Office, please direct your request to the FOIA Officer designated for each of those offices. A list of those Officers is at the end of this document. To request records maintained by the County of Rappahannock, you should direct your request to Debbie Keyser, County Administrator and FOIA Officer. She can be reached by phone at: (540) 675-5330, or by mail at: P.O. Box 519, Washington, VA 22747. In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at foiacouncil@leg.state.va.us, or by phone at (804) 225-3056 or [toll free] 1-866-448-4100.

The County's Responsibilities in Responding to Your Request

Costs

- A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous,

intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of Section 2.2-3704 of the Code of Virginia. A schedule of the costs we charge is printed below.

- If we estimate that it will cost more than \$200 to respond to your request, we will require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. You may request that we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, the County will require payment of the past-due bill before we will respond to your new FOIA request.
- The five days that we have to respond to your request does not include the time between when we ask for a deposit or communicate the cost estimate to you, and when you respond, nor to the time we are waiting for you to provide the media you want us to use as discussed below.
- You may want to physically inspect the records you are interested in before ordering copies. This way you will only have to pay for the records you actually want.

Cost Schedule

- Paper copies: 0.50 per page. If printing is on both sides of a page: \$1.00 per page. If copies can be made by automatic document feeder, there will be no charge for machine operator's time. However, staff time at the rate stated below will be charged if copying involves manual placement of records on the copier, such as positioning pages from books, or reducing oversized documents, requiring more than 10 minutes of operator's time.
- Electronic Copies E-mailed: .50 per page
- Copies Transferred to Other Media: if you want electronic records held by us copied to other media, and we have the capability of doing so, you must provide us with the media you want us to use such as DVDs or a thumb drive. To protect the integrity of our systems, these must be "clean," that is, have no other data or programs stored on them. If we have to wait for you to supply the media, that time does not count against the period in which we have to reply.
- Staff time for search and retrieval costs: \$25.00 per hour; if overtime is required, \$37.50 per hour.

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. The County commonly withholds records subject to the following exemptions:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))

FOIA Officers for the Rappahannock County Office or Department Shown

Richie V. Burke, Building Official, E-911 & Emergency Services Coordinator
P.O. Box 222
Washington, VA 22747-0222
(540)675-5340

Connie S. Compton, Sheriff
P.O. Box 87
Washington, VA 22747-0087
(540)675-5300

Sharon F. Dodson, Commissioner of the Revenue
P.O. Box 115
Washington, VA 22747-0115
(540)675-5370

Arthur L. Goff, Commonwealth's Attorney
P.O. Box 399
Washington, VA 22747-0399
(540)675-5338

Deborah A. Keyser, County Administrator
P.O. Box 519
Washington, VA 22747-0519
(540)675-5330

Debra L. Knick, Treasurer
P.O. Box 37
Washington, VA 22747-0037
(540)675-5360

Margaret R. Ralph, Circuit Court Clerk
P.O. Box 517
Washington, VA 22747-0517
(540)675-5350

Cathy White, Department of Social Services
P.O. Box 87
Washington, VA 22747
(540) 675-3313x232

FOIA Request Form.

Use of this form, while not mandatory, will help us respond to your request in a timely manner and avoid unnecessary cost to you.

Name:

Telephone # where you want to be contacted:

Residence Address: (This address must be within the Commonwealth of Virginia and be where you actually reside, unless this request is made on behalf of the media, in which event please contact the appropriate FOIA Officer by one of the means shown above)

Mailing Address. This is where you want paper copies sent:

E-mail Address. Unless you specify otherwise, we will use this address to communicate with you:

Records Being Requested. Please be as specific as possible. This will save staff time in searching, and avoid giving you more than what you actually want, and will therefore save you money.

Do you want a cost estimate before we reply? YES NO (CIRCLE ONE)

Check one of these:

- I would just like to inspect the records requested. I may request copies later. This may be done during our regular office hours. Please let us know in advance when you are coming. Some records may be stored off-site, or in an area where you will not be allowed, or they may be co-mingled with exempt records that will have to be separated requiring staff time.
- I would like paper copies of the records requested mailed to me at the mailing address shown above.
- I would like the copies e-mailed to me at the e-mail address shown above, if possible.
- I will provide the media I want the records copied onto (Due to technical issues we may not be able to do this. Please speak to us first before requesting this) If we have to wait for you to supply the media, that time does not count against the period in which we have to reply. To protect the integrity of our computer systems, the media must be "clean," that is, have no other data or programs stored on it.

Date this is submitted:

Signature: