

## **Requests for Public Records**

### **The Rights of Requesters and the Responsibilities of Charles City County under the Virginia Freedom of Information Act (FOIA)**

*Updated September 2021*

#### **Purpose of Adopting County FOIA Policy:**

The purpose of this Countywide FOIA Policy is to set forth a uniform framework for processing, responding to, and tracking requests for public records. Providing for transparency and accountability in government operations by ensuring open access to government records is not only a legal obligation – it is one of Charles City County’s core values.

The Virginia Freedom of Information Act, located in § 2.2-3700 et. seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives 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, 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 and 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.

Citizens of the Commonwealth and representatives of the media with circulation in the Commonwealth may:

- Request to inspect or receive copies of public records, or both;
- Request that any charges for the requested records be estimated in advance;
- File a petition pursuant to § 2.2-3713 in district or circuit court to compel compliance with FOIA, if the requester believes that his or her FOIA rights have been violated; and

#### **Making a Request for Records from Charles City County:**

- Request may be submitted by U.S. Mail, fax, e-mail, in person, or over the phone.
- FOIA does not require that the request be in writing, nor does it need to specifically state that records are being sought under FOIA. Please, however, note: It may be helpful to have a request in writing. This provides a record of the request. It also gives a clear statement of what records are being requesting, so that there is no misunderstanding over a verbal request. The County, however, is obligated to respond to verbal FOIA requests that are not in writing.

- The request must identify the records sought with “reasonable specificity.” This is a common-sense standard. It does not refer to or limit the volume or number of records that may be requested; rather, it requires that the request be specific enough so that the County can identify and locate the records sought.
- The request must ask for records or documents. FOIA provides a right to inspect or copy records; it does not apply to a situation where general questions are asked about the work of the County.
- The individual submitting the request may choose to receive electronic records in any format used by the County in the regular course of business. For example, if records maintained in an Excel database are requested, the requestor 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 the County has questions about a request, the County will attempt to work with the requestor to better understand what information is being sought. Making a FOIA request is not an adversarial process, but the County may need clarification regarding the request.

### **Where to Send FOIA Requests:**

Requests for records from the Charles City County local government, may be directed to the address or e-mail below:

Attn: FOIA Requests  
 Charles City County  
 10900 Courthouse Road  
 Post Office Box 128  
 Charles City, Virginia 23030  
[CCCFOIArequests@co.charles-city.va.us](mailto:CCCFOIArequests@co.charles-city.va.us)

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 [www.foiacouncil@dls.virginia.gov](mailto:www.foiacouncil@dls.virginia.gov), or by phone at (804) 225-3056 or toll free at 1-866-448-4100.

### **Examples of Records Requested from County:**

The following is a general description of the types of records held by the County:

- Records of contracts which the County has entered into with vendors.
- Financial records of the County.
- Records of the meetings and transactions of the Board of County Supervisors.
- Personnel records concerning employees and officials. If you are unsure whether the County has the record(s) you seek, please feel free to contact the FOIA Officer named above.

## **The County's Responsibilities in Responding to a FOIA Request:**

The County must respond to a FOIA request within five (5) working days of receiving it. "Day One" is considered the day *after* the request is received. The five-day period does not include weekends or holidays. If a request is received after 5pm EST, the request will be considered received the following working day.

The reason for the request for public records is not required, and the County will not ask why the records are being requested. FOIA does, however, permits the County to ask the requester's name and legal address.

FOIA requires that the County make one of the following responses to a request within the five-day time period:

- Provide the requested public records in their entirety.
- Withhold all of the public records requested, because all of the public records are subject to a specific statutory exclusion. If all of the records are being withheld, the County must provide a response in writing. That written response must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that protects the public record from disclosure.
- Provide some of the public records requested, but withhold others. The County cannot withhold an entire record if only a portion of it is subject to an exclusion. In that instance, the County may redact the portion of the record that may be withheld, and must provide the remainder of the public record. The County must provide 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 logistically impossible for the County to respond to a request within the five-day period, the County must state this in writing, explaining the circumstances. This will allow the County seven (7) additional working days to respond to the request.

If the request is for a very large number of public records and the County cannot provide the records within twelve (12) days without disrupting other organizational responsibilities, the County may petition the court for additional time to respond to the request. FOIA, however, requires that the County make a reasonable effort to reach an agreement with the requester concerning the scope of the request or the production before petitioning the court.

## **Costs**

- The County may require a person seeking public records to pay for the records. FOIA allows the County to charge for the actual costs of responding to FOIA requests. This would include items such as staff time spent searching for the requested records, copying costs or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
- The County will provide the requestor with an estimate, in advance, of the charges for supplying the records requested. This will allow the individual seeking the record to understand any costs up front, or give him or her the opportunity to modify the request in an attempt to lower the estimated costs.
- If a requestor owes the County an outstanding payment balance from a previous FOIA request that has remained unpaid for more than 30 days, the County may require payment of the past-due bill before it will respond to your new FOIA request.

## **Common Exclusions:**

The Virginia Freedom of Information Act permits any public body to withhold certain records from public disclosure. The County commonly withholds records subject to the following exclusions (although other exclusions under the Act or the Code of Virginia may also protect a public record from disclosure):

- Personnel records (§ 2.2-3705.1(1));
- Records subject to attorney-client privilege (§ 2.2-3705.1(2)) or attorney work product (§ 2.2-3705.1(3));
- Vendor proprietary information software (§ 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)).