

Virginia Freedom of Information Act Request Policy

Under the Virginia Freedom of Information Act (“FOIA”), the Town must guarantee access to public records held by the Town, its officers, and employees. A public record is any writing or recording prepared, owned, or possessed by the Town, its officers, employees, or agents in the transaction of public business. A public record may be in any format, including, but not limited to, a paper document, electronic file, audio recording, or video recording. The types of records maintained by the Town generally include personnel records for the Town’s employees and officials and records of the Town’s contracts. All public records are open and available for public inspection and may be withheld only if a specific statutory exemption applies.

FOIA requests should be directed to the Town’s FOIA Officer:

Bryan Chrisman, Acting- Town Manager

45 East Main Street

Luray, Virginia 22835 (540)

743-5511

bchrisman@townofluray.com

A request for records can be written or verbal. The request must identify the records being sought with reasonable specificity. In other words, the request must be specific enough for the Town to identify and locate the records being requested. Each requestor is encouraged to complete the Town’s Record Request Form to ensure an accurate and complete response. If a requestor prefers to make a verbal request, Town staff will complete the form as completely as possible based on information provided verbally by the requestor. The Town maintains a copy of each Record Request Form along with its response.

Upon receiving a FOIA request, the Town must do one of the following within five working days:

- (1) Provide the requested records in their entirety.
- (2) Withhold the requested records in their entirety based upon a statutory exemption. The Town must provide a written response that identifies the volume and subject matter of the records being withheld along with the Virginia Code section authorizing the withholding.
- (3) Provide some of the requested records, but withhold other records which are exempt. If only a portion of a record is exempt, the Town will redact that portion of the record and provide the remainder. The Town must also provide a written response that identifies the Virginia Code section authorizing the redaction and/or withholding.
- (4) Inform the requestor in writing that the requested records cannot be found or do not exist. If the Town is aware of another public body that has the requested records, the contact information for that public body must be included in the Town’s response.
- (5) When it is not practically possible to provide the requested records or determine whether they exist within five working days, the Town must say so in writing and explain why. The Town may take up to an additional seven working days to respond to the request.

The five working day period for the Town's response begins on the day after receipt of the request and does not include weekends or holidays. The Town may petition the court for additional time to respond to a request for a very large number of records if a response is not possible within 12 working days. The Town must make a reasonable effort to reach an agreement with the requestor for additional time prior to going to court.

The Town is not required to create records when a FOIA request seeks records which do not exist. A requestor may elect to receive electronic records in any format used by the Town in the regular course of business.

A requestor may ask to review records in addition to receiving copies. In this case, the requestor will be provided with a suitable place to review the requested records. The Town's copies of any records provided for review are not permitted to leave the Town's offices.

With respect to costs, the Town follows the following policy pursuant to Virginia Code § 2.23704.1(A)(6):

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 § 2.2-3704 of the Code of Virginia.

The Town may charge for the actual costs of responding to a FOIA request, including items like staff time spend searching for records, copying costs, and any other costs directly related to supplying the requested records. It cannot include general overhead costs. The requestor has the right to request an estimate of any charges for the requested records in advance. If any charges will apply, the Town will advise the requestor at the time of the request or as soon in the response process as it becomes known.

If the Town estimates that the cost of a response will exceed \$200, the requestor may be required to pay a deposit not to exceed the amount of the estimate before the Town provides a response. If charges for a previous FOIA request have remained unpaid for more than 30 days, the Town may require payment of the overdue charges before responding to a new FOIA request from the same requestor.

The Town's FOIA Officer determines whether a record or part of a record is exempt from disclosure. The Town commonly withholds records subject to the following exemptions:

- (1) Personnel records (Va. Code § 2.2-3705.1(1)).
- (2) Records subject to attorney-client privilege (Va. Code § 2.2-3705.1(1)) or the attorney workproduct doctrine (Va. Code § 2.2-3705.1(4)).
- (3) Vendor proprietary information (Va. Code § 2.2-3705.1(6)).
- (4) Records relating to the negotiation and award of a contract prior to the award of the contract (Va. Code § 2.2-3705.1(12)).

The Town's general policy is to invoke the personnel records exemption when necessary to protect the privacy of the Town's employees and officials. The Town generally invokes the contract negotiations exemption whenever necessary to protect the Town's bargaining position or negotiating strategy.

A requestor who believes that FOIA rights have been violated may file a petition in district or circuit court to compel compliance with FOIA. In addition, a requestor may contact the Virginia Freedom of Information Advisory Council for a nonbinding advisory opinion. A requestor may contact the FOIA Council with any questions about FOIA at (866) 448-4100 or foiacouncil@dls.virginia.gov.

