



Town of Culpeper, Virginia

FREEDOM OF INFORMATION & PRIVACY PROTECTION POLICY

Effective: October 15, 2007, revised July 2015

1. PURPOSE

To further enhance public trust in our town government and to set forth a uniform procedure for processing and responding to requests for information subject to the Virginia Freedom of Information Act ("FOIA" or "Act"), Code of Virginia Section 2.2-3700 through 2.2-3714.

2. POLICY

It is the policy of the Town to provide an open forum for public input and inquiry and to make documents used to conduct government available. This policy does not relieve the Town of its responsibility as custodian of these records nor does it prevent the Town from taking necessary precautions for the preservation and safekeeping of Town files and documents.

3. SCOPE

This policy applies only to the production of existing documents subject to disclosure under the terms of the FOIA. Neither this policy nor the Act requires that a record/document be created in order to provide the requested information or questions be answered that are not contained in an existing document.

4. DEFINITIONS

a. ***Public body*** means any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions; boards of visitors of public institutions of higher education; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds. It shall include any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members.

b. **Routine Information Requests** means those requests that involve simple, day-to-day or usual

requests for access to or copies of readily available, concise, and discrete information. These requests are considered more informal in nature and may be provided at minimal cost or no cost.

(For example: copies of accident reports, cemetery records, agendas, minutes, and publications.)

c. ***Non-Routine Information Requests*** means requests for access or copies of records that are not the types described under Routine Information Requests. These requests shall be referred to the Town Clerk's Office for processing.

5. PROCEDURES

Except as otherwise specifically provided by law, all public records shall be open to inspection and copying by any citizens of the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth. The custodian may require the requester to provide his or her name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

a. ***Request Format***: Requests for public records may be in writing, in person, by telephone, or electronically transmitted. The request must identify the requested records with reasonable specificity, but it need not make specific reference to the Virginia Freedom of Information Act. For the sake of accuracy and efficiency, if the request is a Non-Routine Information Request, the requestor may be asked to put the request in writing utilizing the Town's request form, or in the alternative, the Town employee taking the request may write it down and confirm its accuracy with the citizen. There shall be a written record of all Non-Routine Information Requests maintained in the Town Clerk's Office.

The Act does not require public records be provided to out-of-state residents. If an out-of-state resident makes a request, this request shall be forwarded to the Town Clerk's Office for response.

b. ***Response***: All records **MUST** be made available to the requestor within five (5) working days from the date of the request. If it is infeasible to produce such records within five (5) working days from the date of the request, one of the five (5) responses below **MUST** be sent to the requestor in writing within the five (5) day period. When the request is for extraordinary volume or requires an extraordinarily lengthy search, and such a response will prevent the public body from its operational responsibilities, the requestor and the Town may agree to a response time that exceeds the statutory five days, ("Extended Response Time") but such agreement shall be in writing ("Extended Response Time"). If no Extended Response Time is agreed upon by the requestor and Town, the Town may petition the appropriate court for an extension of time to produce the records.

FOIA permits five (5) possible responses to requests:

1. The requested records are being provided.
2. The requested records are being entirely withheld because their release is prohibited by law or the custodian has exercised his discretion to withhold the records in accordance with this chapter. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records. **Consult with the Town Attorney.**
3. The requested records are being provided in part and are being withheld in part because the release of part of the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of the records in accordance with this chapter. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records. When a portion of a requested record is withheld, the public body may delete or excise only that portion of the record to which an exemption applies and shall release the remainder of the record. **Consult with the Town Attorney.**
4. The requested records could not be found or do not exist. If the Town knows that another public body has the requested records, the response shall include contact information for the other public body.
5. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days in which to provide one of the four preceding responses.

c. Form of Response/Form of Records: All responses shall be in writing (electronic or paper) unless a specific medium is requested. The records may be produced in any tangible medium identified by the requestor, including delivering the records through email to an address provided by the requestor. If an electronic medium is requested, the standard electronic format of the Town department shall be used. Upon agreement by the requestor and the Town for the production of the records in a non-standard format, the requestor must agree in advance to pay the reasonable costs incurred for the conversion, not to exceed the actual costs of the conversion.

For Non-Routine Information Requests, the response must include an estimated cost. The Town Clerk, Town Manager, appropriate department head(s), and the Town Attorney will work together, as necessary, to address legalities, fees, and the timeframe required to respond to non-routine requests.

Records relating to Non-Routine Information Requests are not to be released until the Town Manager, Town Clerk, and/or Town Attorney have reviewed them to determine that exempt materials are excluded.

For extraordinary volumes of responsive documents, the Clerk's Office will review the

documents for possible exemptions before consulting the Town Attorney.

d. ***Billing:*** For Non-Routine Information Requests, the Town shall charge a fee not to exceed the actual cost for accessing, duplicating, searching, or supplying the requested records. If providing the requested records involves non-standard medium, color or commercial-type copies, these charges may be based on a commercial copy service or other service providers' rates, and the fee charged shall not exceed the actual cost incurred by the Town.

All charges for the supplying of requested records shall be estimated in advance and in any case where the Town determines that charges for producing the requested records are likely to exceed \$200.00, the Town may, before continuing to process the request, require the requestor to agree to payment of a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The time in which the Town must respond to the request stops running until the day the deposit is received.