



FAQs

Making a FOIA Request

Q: What is a public record?

A public record is any writing or recording — regardless of whether it is a paper record, 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.

Q. What types of records does the City maintain?

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

- Personnel records concerning employees and officials of the City
- Records of contracts to which the City is a party
- Budget records
- Records showing revenues and expenditures of the City
- Real estate records, such as leases, easements, deeds, and records related to the acquisition or sale of real estate.
- Law enforcement records and other records of both internal and external investigations
- Building, planning, transportation, and other community development records
- Agendas, agenda items, minutes, and other records of the meetings of City Council, Planning Commission, and other governmental bodies appointed by City Council
- Records of the City's fleet of vehicles, solid waste management, and security management
- Records of City departments concerning matters within each department's area of responsibility
- Tax and licensing records

If you are unsure whether the City has the record(s) you seek, please contact the City's FOIA officer (see contact info on last page).

Q. Are any records exempt from release to the public?

The Code of Virginia allows any public body to withhold certain records from public disclosure. The City 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))
- Tax records (§ 58.1-3)
- Health records (§ 2.2-3705.5(1))
- Appraisals and cost estimates of real property subject to a proposed sale, purchase, or lease (§ 2.2-3705.1(8))
- Records requested by individuals who are not citizens of Virginia or representatives of the media (§ 2.2-3704(A))

Q: How do I make a FOIA request?

- 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.
- From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives the City a clear statement of the records you are requesting, so there is no misunderstanding of a verbal request. However, the City 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 the City can identify and locate the records 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 City; nor does it require the City to create a record that does not exist.
- You may choose to receive electronic records in any format used by the City 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 CD or flash drive, or to receive a printed copy of those records.

- If the City has questions about your request, please cooperate with staff's efforts to clarify the type of records 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 the City may need to discuss your request with you to ensure your request is understood.

Q. How will you respond to my request?

- The City 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 from the City is irrelevant, and you do not have to state why you want the records before the City responds to your request. FOIA does, however, allow the City to require you to provide your name and legal address.
- FOIA requires that the City make one of the following responses to your request within the five-day time period:
 1. The City provides you with the records you have requested in their entirety.
 2. The City withholds 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, the City 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 the City to withhold the records.
 3. The City provides some of the records that you have requested, but withholds other records. The City cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, the City may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. The City 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.
 4. The City informs you in writing that the requested records cannot be found or do not exist (the City does not have the records you want). However, if the City knows another public body has the requested records, the City must include contact information for the other public body in its response to you.
 5. The City informs you that it is practically impossible for the City to respond to your request within the five-day period. The City must state this

in writing, explaining the conditions that make the response impossible. This will allow the City seven additional working days to respond to your request, giving the City a total of 12 working days to respond to your request.

- If you make a request for a very large number of records, and the City feels that it cannot provide the records to you within 12 working days without disrupting other organizational responsibilities, the City may petition the court for additional time to respond to your request. However, FOIA requires that the City make a reasonable effort to reach an agreement with you concerning the production of the records before it goes to court to ask for more time.

Q. Are there costs associated with my FOIA request?

- 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.
- You may have to pay for the records that you request from the City. FOIA allows the City to charge for the actual costs of responding to FOIA requests. This would include items like 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 following rates apply to FOIA requests:
 - \$0.20 per page for hard copies
 - \$5.00 for records provided on USB thumb drives or CDs
 - \$32.03 hourly rate for the City's FOIA Officer to access, duplicate, supply, or search for the requested records
 - \$39.75 hourly rate for the City's Systems Engineer II to access, duplicate, supply, or search for the requested records*If another City employee must access, duplicate, supply, or search for the requested records, that particular employee's hourly rate shall be charged. That rate can be provided once it is determined who will be responsible for searching for and providing those records.
- Individual City departments may choose not to charge for FOIA requests, however, please note that this has no bearing on other departments' authority to charge for FOIA requests.
- It is the City's policy not to charge for the first hour of staff time to access,

duplicate, supply, or search for the requested records.

- If the City estimates that it will cost more than \$200 to respond to your request, the City may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days the City has to respond to your request does not include the time between the date of which the City asks for a deposit and the date on which you respond.
- You may request that The City estimate in advance the charges for supplying the records 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 the City money from a previous FOIA request that has remained unpaid for more than 30 days, the City may require payment of the past-due bill before it will respond to your new FOIA request.

Questions?

You may direct further questions and requests for records to the City's FOIA officers:

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