

# **FOIA Rights & Responsibilities:**

## **The Rights of Requesters and the Responsibilities of Amelia County under the Virginia Freedom of Information Act**

The Virginia Freedom of Information Act (FOIA), located § 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 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 stated purpose of FOIA is to promote an increased awareness of governmental activities by all persons. To promote 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.

### **Your FOIA Rights**

- You have the right to ask to inspect **or** receive copies of public records, or both.
- You have the right to ask 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. Alternatively, you may contact the Virginia Freedom of Information Advisory (see below) for a nonbinding advisory opinion.

### **Making a Request for records from Amelia County**

- You may request records from us by U.S. Mail, fax, e-mail, over the phone, or in person. 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 us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request just because you choose 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 give you the right to insist that County officials do research for you or respond to a list of questions from you about County related matters, nor does it require County officials to create a record that does not already exist.
- You may choose to receive electronic records in any format that the County uses 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 be sure that we understand what records you are looking for.

**Requests for County records or questions about them may be directed to:**

**County Administrator, A. Taylor Harvie, III, [taylor.harvie@ameliacova.com](mailto:taylor.harvie@ameliacova.com) or phone 804.561-3039;**

**Commonwealth Attorney, Lee R. Harrison, [ameliaca@tds.net](mailto:ameliaca@tds.net) or phone 804.561-3302;**

**Circuit Court Clerk, Marilyn L. Wilson, [mwilson@courts.state.va.us](mailto:mwilson@courts.state.va.us) or phone 804.561-2128;**

**Sheriff, Ricky L. Walker, [rlwalker@ameliasheriff.org](mailto:rlwalker@ameliasheriff.org) or phone 804.561-2118;**

**Treasurer, Pamela H. Conyers, [pam.conyers@ameliacova.com](mailto:pam.conyers@ameliacova.com) or phone 804.561-2145;**

**Commissioner of Revenue, Laura M. Walsh, [laura.walsh@ameliacova.com](mailto:laura.walsh@ameliacova.com) or phone 804.561-2158;**

**Registrar, Manda H. Gravley, [govote007@tds.net](mailto:govote007@tds.net) or phone 804.561-3460;**

**Industrial Development Authority, A. Taylor Harvie, III, [taylor.harvie@ameliacova.com](mailto:taylor.harvie@ameliacova.com) or phone 804.561-3039;**

**James L. Hamner Public Library, Jill M. Hames, [jmhames@hamnerlibrary.org](mailto:jmhames@hamnerlibrary.org) or phone 804.561-4559.**

**In addition, the Virginia Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. Email:**

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

## **Amelia County's Responsibilities in Responding to Your Request**

- We must respond to your request for records 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 state holidays.
- Your reason for wanting the records is irrelevant; you do not have to state why you want the records before we respond to your request. Knowing your intended use of the records, however, can sometimes make it easier for County officials to identify those records.
- FOIA does, however, allow the County to require you to provide your name and legal address.
- FOIA requires the County to make one of the following responses to your request within the five-day time period:
  - 1) We provide you with the records that you have requested in their entirety.
  - 2) 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 and state the specific section of the Code of Virginia that allows us to withhold the records.
  - 3) 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 and estimate the volume of records we are withholding under that section.
  - 4) We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we will include contact information for the other public body in our response to you. If it is practically impossible for us 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, 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 working 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 about when we can produce the records, before we go to court to ask for more time.

- PLEASE NOTE: Amelia County's elected constitutional officers -- the Commonwealth's Attorney, Sheriff, Treasurer, Commissioner of the Revenue, and Clerk of Circuit Court -- as well as the County's Electoral Board and General Registrar, are the legal custodians of their own records, and have separate disclosure exemptions applicable to some of their records. If we receive a request for records that are held by one of those officials we will refer the requester to that official as described above.

### **Costs**

- FOIA allows us to make reasonable charges for accessing, duplicating, supplying, or searching for the requested records. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include staff time spent searching for the requested records, copying costs, and any other costs directly related to supplying the requested records. Any charge for making copies may not exceed the County's actual cost of duplication. We cannot include general overhead costs or other extraneous charges.
- If you ask us to, we will estimate the charges for the supplying of requested records, as set forth in subsection F of § 2.2-3704 of the Code of Virginia. If we estimate that it will cost us more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- 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 up front, and give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe the County money from a previous FOIA request that has remained unpaid for more than 30 days, we may require payment of the past-due bill before it will respond to any new FOIA request.

### **Types of records**

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

- Agendas and minutes of meetings of the board of supervisors, planning commission and other public bodies of the County.

- Staff reports, analyses and recommendations about proposals being made to such bodies
- Salary and expense records and other personnel records concerning employees and officials of the County.
- Records of the County's contracts with other public bodies, or with private individuals or firms providing goods and services to the County.
- Budgets, reports on County income and expenditures, audited financial statements and other records relating to the County's financial positions..

If you are unsure whether the County has the record(s) you seek, please contact Mr. Harvie at the email address or phone number shown above.

### **Commonly used exemptions and policy regarding their use**

The Code of Virginia allows any public body to withhold certain records from public disclosure. The County generally does withhold records that fall under the following exemptions:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia), except for the job title, salary, and expense reimbursements and
- Records that are 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))
- Medical and social services records.
- Records relating to the negotiation and award of a contract, before a contract has been awarded (§ 2.2-3705.1 (12))