

The Rights of Requesters and Responsibilities of the Town of Front Royal under The Virginia Freedom of Information Act

The Freedom of Information Act (FOIA), § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth of Virginia, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth access to public records held by public bodies, public officials, and public employees during regular office hours of the custodian of such records. The custodian may require the requester to provide his name and legal address (VA Code §2.2- 3704). All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The purpose of FOIA is to promote an increased awareness and transparency of government activities and afford residents an opportunity to witness the operations of government.

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.

Requester's FOIA Rights

- You have the right to request, to inspect or receive copies of public records, or both.
- You have the right to request 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 FOIA Council for a nonbinding advisory opinion.

How to Make a FOIA Records Request

You may submit a records request in several ways:

Email: foia@frontroyalva.com

U.S. Mail: FOIA Request, Attention: Clerk of Council, 102 E Main St., Front Royal, VA 22630

In Person: 102 E. Main Street, Front Royal, Virginia 22630

Online: via Town of Front Royal's website [Front Royal, VA | Official Website \(frontroyalva.com\)](http://FrontRoyal,VA|OfficialWebsite(frontroyalva.com))

How to Make a FOIA Records Request for the Police Department:

[Front Royal Police Department | Front Royal, VA \(frontroyalva.com\)](http://FrontRoyalPoliceDepartment|FrontRoyal,VA(frontroyalva.com))

Fulfilling A FOIA Request

The Town of Front Royal will respond to a request within five (5) working days of receiving the records request. "Day One" is considered the day after the request is received. The five-day period does not include weekends or holidays. FOIA requires that the Town make one of the following responses to your request within the five (5) working days:

- Provide the records that have been requested in their entirety.

- Withhold all the records requested, because all the records are subject to a specific statutory exemption. If all the records are being withheld, a response in writing will be sent with an explanation of the exemption. The response will identify the volume and subject matter of the records being withheld and state the specific section of the Code of Virginia that allows the records to be withheld.
- Provide some of the records that have been requested but withhold other records. An entire record will not be withheld only if a portion of it is subject to an exemption. In that instance, the portion of the record that may be withheld will be redacted, the remainder of the record will be provided. A written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld will be sent.
- Inform the requester in writing that the requested records cannot be found or do not exist. However, if we know that another public body has the requested records, contact information for the other public body will be included in the response.
- If the Town of Front Royal cannot respond to a request within the five (5) working days, the requester will be informed in writing, explaining the conditions that make the response impossible. This will allow the Town seven (7) additional working days to respond to the request, giving a total of 12 working days to respond to the request.

If a request is made for a very large number of records, and it is determined that it cannot be provided within twelve (12) working days without disrupting other organizational responsibilities, the Town may petition the court for additional time to respond to the request. However, FOIA requires that a reasonable effort to reach an agreement with the requester concerning the production of the records before going to court to ask for more time.

Costs

A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. Prior to conducting a search for records, the public body shall notify the requestor in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying or searching for requested records and inquire of the requestor whether he would like to request a cost estimate in advance of the supplying of the requested records.

If the estimated cost is more than \$200, a deposit will be required (not to exceed the amount of the estimate), before proceeding with the request. The five (5) working days to respond to a request does not include the time between when asking for a deposit and a response from the requester. All deposits shall be paid by check or money order made payable to the Town of Front Royal, Attn: Clerk of Council, 102 E. Main Street. If the public body receives no response from the requester within thirty (30) days of sending the cost estimate, the request shall be deemed withdrawn. Deposits will be held until the request is complete. Any outstanding balance due must be paid before or at the time the responding records are released. If money is owed from a previous FOIA request that has remained unpaid for more than thirty (30) days, the Town of Front Royal will require payment of the past-due bill before responding to a new request.

Costs include items such as staff time, copying costs or any other costs directly related to supplying

the requested records. It will not include general overhead costs. Personnel time for responses to a FOIA request that require thirty (30) minutes or less of time spent searching will not be charged to the requester. The time fee charged for responses shall be based upon the annualized Town pay rate, plus the total annual costs of regular Town benefits for the individual(s) preparing a response to a FOIA request. In addition to personnel time, fees charged for copying and other costs shall be as follows (the Town will waive these costs, if \$2.00 or less, for any one-time FOIA request):

- Copies: \$0.15 per page
- Copies larger than 11 x 17 and/or require specialized equipment to reproduce: as determined by responding personnel, based on actual costs
- A double-sided document counts as two (2) pages
- Thumb drive, flash drive, USB, etc.: based on actual costs
- Actual mail costs will apply if more than two (2) ounces, otherwise no charge
- Other/specialty items (including audio/video recordings): as determined by responding personnel, based on actual costs

General Guidelines

A request must identify the records needed with “reasonable specificity.” It does not refer to or limit the volume or number of records requested; instead, it requires that a request be specific enough to identify and locate records.

A request must ask for existing records or documents. FOIA allows for inspection or copying of records; it does not apply to a situation asking general questions about the work of a department or the Town, nor does it require a department to create a record that does not exist.

Records can be provided in the format in which they were created. For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail, computer disk, thumb/flash drive, etc. or to receive a printed copy of those records. You may be contacted if there are questions about a request, to ensure that the appropriate records are being provided.

Exemptions

The Code of Virginia allows any public body to withhold or exempt (redact) certain records from public disclosure. The Town of Front Royal commonly withholds or exempts records such as:

Common Exemptions:

- Portions of records that contain account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body (VA Code §2.2- 370501(13))
- Personnel records (VA Code § 2.2-3705.1 (1))
- Records subject to attorney-client privilege (VA Code § 2.2-3705.1 (2)) or attorney work product (VA Code § 2.2- 3705.1 (3))
- Vendor proprietary information (VA Code § 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (VA Code§ 2.2-3705.1 (12))
- Plans and information to prevent or respond to terrorist activity (VA Code §2.2-3705.2(4))
- Confidential Tax Information (VA Code §58.1-3)

- Criminal investigative files (VA Code §2.2-3706(A)(2)(a))
- For a full list of exemptions, See VA Code §2.2-3705.1

Policy Regarding the Use of Exemptions

- It is the Town of Front Royal's general policy to exempt any and all records that are allowed to be exempted, redacted, or excluded from production by law
- Any record exempt under the Virginia Code, which the custodian of the record has the option of disclosing, shall not be disclosed

For more information:

The Freedom of Information Advisory Council (FOIA) is available to answer any general questions about how FOIA works. The Council was created in the legislative branch of state government to issue opinions on the operation and application of FOIA, to publish educational materials, and to provide training about FOIA. However, please be aware that the Council is not a records repository and does not process records requests on behalf of other public bodies, nor is the Council an investigative or enforcement agency. The Council may be contacted by email at foiacouncil@dls.virginia.gov and by phone at (804) 698-1810 or (toll free) 1-866-448-4100.

THE TOWN OF FRONT ROYAL INTERNAL FOIA POLICY

The Town of Front Royal will abide by the following internal procedures for responding to a FOIA request whether it be a records request or general questions:

- Once records request and/or general questions are received from any department (except the Police Department), they are to be sent via email to foia@frontroyalva.com.
- The Clerk of Council oversees the above email and will determine what applicable

department(s) will provide responses to the FOIA records request with a deadline on completing the request. If more time is needed, the department(s) are required to advise the Clerk of Council as soon as possible.

While general questions are not a FOIA request under FOIA guidelines, they will be considered and answered accordingly. The five (5) working day period does not apply.

- On or before the deadline the applicable department(s) will provide all responsive records (if any) to the Clerk of Council.
- If needed, the Clerk of Council will submit records to the Town Attorney's Office for final review to ensure that records are required and/or allowed to be exempted, redacted, or withheld.
- The Town Attorney's Office will transmit all allowable records back to the Clerk of Council for final coordination and transmittal to the requester, unless specifically asked by the for the Town Attorney's Office to complete the transmittal to the requester. The Police Department generally follows their own FOIA Policy but shall direct their legal questions to the Town Attorney, as needed.

This Policy shall be approved by the Town Council initially and amendments made administratively and approved by the Town Manager as state code and internal procedures change.

Approved by Council 2/28/22

Amendments Approved by Interim Town Manager Kathy Leidich 8/30/22