



TOWN OF MINERAL POLICIES MANUAL FOIA REQUESTS

POLICY NO.: 1.1

EFFECTIVE: 11/25/24

OVERVIEW:

This Council approved FOIA policy will provide consistency relating to the timing and manner in which its office will process and respond to such requests.

BACKGROUND:

The Virginia Freedom of Information Act (FOIA), located in § 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 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.

REQUESTOR RIGHTS:

You have the right to request to inspect or to receive copies of public records, or both.

You have the right to request that any charges for the requested records be estimated in advance. As of July 1, 2022, public bodies must notify requesters 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 requester whether he would like to request a cost estimate in advance of the supplying of the requested records.

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.

REQUESTING DOCUMENTS:

Requests can be made via U.S. Mail, fax, email, in person, or over the phone.

To be sure your request can be processed efficiently, your request should contain the following:

- **"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 enough detail to be provided so that the Town can identify and locate the records being sought. Va. Code § 2.2-3704(B). There may be a delay in processing if more information is needed.
- **Your request must ask for existing records or document:** FOIA permits you to inspect or copy existing records. FOIA does not require the creation of records that do not exist, and it does not require the production of information that is not a part of records or documents. Va. Code § 2.2-3704(D).
- **Requested Format:** Format in which you wish to receive responsive documents Va. Code § 2.2-3704(G).

FOIA does not require a public body to answer questions related to their records; FOIA only requires the production of that record—if it exists. Code § 2.2-3704(D)

FULFILLING A REQUEST:

The Town of Mineral must respond to your request within five working days. "Day One" is considered the day after your request is received. The five working days do not include weekends or holidays.

The Town of Mineral requires requestors to provide your name and legal address. § 2.2-3704 (A).

All Public Records shall be open 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. It is the Town of Mineral's standard practice to deny requests that do not meet these criteria § 2.2-3704 (A).

FOIA requires that The Town of Mineral make one of the following responses to your request within the five-day time period:

- The Town provides you with the records that you have requested in their entirety;
- The Town withholds all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If the entire records are being withheld, the Town must send you a response in writing. The response must identify the volume and subject matter of the records being withheld and state the specific section of the Code of Virginia that allows us to withhold the records;
- The Town provide partial release of the records that you have requested. The Town has a duty to redact. Those portions of the public record containing information subject to an exclusion under the chapter or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed if cannot withhold an entire record if only a portion of it is subject to an exemption;
- We inform you in writing that the requested records cannot be found or do not exist. If the Town is not the custodian of the records but knows of another public body that may be the custodians for the requested records, the Town will include contact information for the other public body in our response to you;
- If it is practically impossible for the Town of Mineral to respond to your request within the five-day period, the Town must state in writing an explanation of the conditions that make the response impossible. The Town will then invoke the seven-day extension provided under FOIA. § 2.2-3704 (4).

In large requests, the Town of Mineral may petition the appropriate court for additional time, however, the Town will first work with the requester concerning a reasonable production date.

Requests will be considered withdrawn if the public body does not get a response from the requester within 30 days of providing the cost estimate. Code § 2.2-3704 (F).

As allowed under § 2.2-3704 (F), "...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."

The Town of Mineral does not have a fixed charge for accessing or searching for records.

Fees to produce FOIA requests are charged based on the time spent by the individual(s) compiling and redacting the record(s) and additional charges. The fee for time spent is calculated by the employee's hourly rate (the total annual salary of the individual divided by 2,080 hours) multiplied by the time of production (measured in 15-minute increments).

The Town will take all reasonable precautions to keep personnel time and costs to a minimum, however, in some cases, it may be necessary for multiple personnel to participate in responding to a FOIA request.

Paper copy reproductions will be charged at \$.25 per page.

Standard USPS postage rates apply if the responsive records need to be mailed.

If the Town estimates that it will cost 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. Daily tolling will be paused until the deposit has been paid.

If the Town estimates that it will cost less than \$200, an invoice will be attached to the production of the records.

You may request that the Town provide an estimate in advance. If you do not respond within 30 days, then your request will be deemed to be withdrawn.

The Town will require payment of past-due FOIA invoices, greater than 30 days past due, before processing a new FOIA request.

The Town Council authorizes the Town Attorney and designated FOIA Officer to make and disseminate periodic changes as may be requested by state law.