

Freedom of Information Act (FOIA) Requests

The Virginia Freedom of Information Act, § 2.2-3700 et seq. of the Code of Virginia (“VFOIA”), 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 VFOIA states that the purpose of VFOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, VFOIA 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 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 VFOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with VFOIA. Alternatively, you may contact the VFOIA Council for a non-binding advisory opinion.

Making a Request for Records

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. VFOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under VFOIA.
 - 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 an oral request. However,

we cannot refuse to respond to your VFOIA request if you elect to not put it in writing. Submit your request [here](#).

- 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.
- You may choose to receive electronic records in any format used by the Town in the regular course of business.

To request records from the Town of Warsaw, you may direct your request to Julia Blackley-Rice, our FOIA Officer, who can both be reached at:

Julia Blackley-Rice
Clerk of Council
P.O. Box 730
Warsaw, VA 22572
jblackleyrice@town.warsaw.va.us
Phone: 804-333-3737
Fax: 804-333-3104

Additionally, the Freedom of Information Advisory Council is available to answer any questions you may have about VFOIA. The Council may be contacted by e-mail at

foiacouncil@dls.virginia.gov, or by phone at (804) 225-3056 or [Toll-Free] 1-866-448-4100.

The Town’s Responsibilities to Respond

- The Town of Warsaw must respond to your request within five (5) 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 Town is irrelevant, and you do not have to state why you want the records before we respond to your request. VFOIA does, however, allow the Town of Warsaw to require you to provide your name and legal address.

- VFOIA requires that the Town of Warsaw make one of the following responses to your request within the five-day time period:
 - The Town may provide you with the records that you have requested in their entirety.
 - The Town may 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 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 may 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, the Town 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.
 - The Town may inform you in writing that the requested records cannot be found or do not exist (i.e., the Town does not have the records you requested). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.
 - If it is practically impossible for the Town of Warsaw 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 the Town seven (7) additional working days to respond to your request, giving us a total of 12 working days to respond to your request, exclusive of weekends and holidays.
 - If you make a request for a very large number of records, and if the Town determines that we cannot provide the records to you within 12 working days without disrupting our other organizational and operational responsibilities, we may petition the court for additional time to respond to your request. However, VFOIA requires that we make a reasonable effort to reach an agreement with you

concerning the production or the records before we petition the court to ask for more time.

Costs

- Notice Required Under Va. Code § 2.2-3704.1:

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. 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. Prior to conducting a search for records, the public body shall notify the requester 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 as set forth in subsection F of § 2.2-3704 of the Code of Virginia.

- You are responsible for the payment of records that you request from the Town of Warsaw. VFOIA allows the Town to charge for the actual costs of responding to VFOIA requests. This would include staff time spent searching for the requested records, duplication costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
- You may request that the Town estimate in advance the charges for supplying the records that 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 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. The five (5) 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.
- If you owe the Town money from a previous VFOIA request that has remained unpaid for more than 30 days, the Town may require payment of the past-due bill before it will respond to your new VFOIA request.

- When using a credit card, a 2.5% convenience fee will be added to the total. A “convenience fee” will be applied to each transaction. These fees are charged by the credit and debit card companies and their processors.

Fee Schedule:

FOIA FULFILLMENT COSTS	COST
STAFF RESEARCH	HOURLY RATE (rounded up to the ¼ hour)
PLANNING\ZONING	\$40
UTILITIES	\$20
TAX	\$28
BUDGETARY	\$58
RECORDS	\$25
LAW ENFORCEMENT	\$40
OTHER INFORMATION	VARIES BY TOPIC
DUPLICATION OF RECORDS	Per item
Black and White Copy	\$0.01
Color Copy	\$0.05
DVD	\$1.00
Flash Drive	\$4.00
Electronic documents	emailed at no charge

Types of Records

The following describes the types of records held by the Town of Warsaw:

- Annual budget
- Ordinances and resolutions of Town Council
- Minutes of meetings of the Town Council
- Accounts payable records
- Personnel records concerning the employees and officials of the Town of Warsaw
- Records of contracts which the Town of Warsaw has entered into

Commonly Used 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))

Policy Regarding Use of Exemptions

- The general policy of the Town of Warsaw is to invoke the exemptions permitted by VFOIA in strict accordance with VFOIA. In other words, exemptions are narrowly construed.