

The Rights of Requesters and the Responsibilities of the County of Brunswick 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. FOIA was enacted to promote an increased awareness by all persons of governmental activities. In furthering this policy, Brunswick County developed this policy to inform its citizens of the rights they have to accessing public records. 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.

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 following policy does not apply to the offices of the Sheriff, the Commissioner of the Revenue, the Treasurer, the Commonwealth Attorney, the Clerk of the Circuit Court, the Registrar, or other independent entities and commissioners such as the Industrial Development Authority, the School Board, etc.

Your FOIA Rights

1. You have the right to request to inspect **or** receive copies of public records, or both.
2. You have the right to request that any charges for the requested records be estimated in advance.
3. 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.

Making a Request for records from the County of Brunswick

1. You may make a FOIA request 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.
2. However, to best ensure that your request is responded to accurately and completely, it is helpful to have the request in writing and its receipt dated. A Request Form is available for your convenience.
3. From a practical perspective, both you and the person receiving your request are urged to put the oral request in writing. This allows you to create a record of your request. It also gives the County a clear statement of what records you are requesting, so that there is no misunderstanding over the oral request. However, we cannot refuse to respond to your FOIA request if you elect to not put it in writing.

4. 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.
5. 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 County.
6. FOIA does not require the County to create a record that does not exist.
7. You may choose to receive electronic records in any format used by the County 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
8. 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 ensure that we understand what records you are seeking.
9. To request records from the County (or to ask questions regarding how to request a record), you may contact Leslie R. Weddington at lweddington@brunswickco.com or by phone at 434-848-3107. If you know where the records are kept, you may make a request directly to one of the following Department Directors:
 - Finance
 - Planning
 - Building Inspections
10. In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. 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 County's Responsibilities in Responding to Your Request

1. The County 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.
2. The reason behind your request for public records from the County is irrelevant, we cannot ask you why you want the records before we respond to your request. FOIA does, however, allow the County to ask you to provide your name and legal address.

3. FOIA requires that the County make one of the following responses to your request within the five-day time period:
 - a. We provide you with the records that you have requested in their entirety.
 - b. 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 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.
 - c. 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.
 - d. If it is practically impossible for the County to respond to your request within the five-day period, we will state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of twelve (12) working days to respond to your request.
 - e. 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 concerning the production of the records before we go to court to ask for more time.

Costs

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. 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.
2. You may have to pay for the records that you request from the County. FOIA allows us 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 in the format that you requested. General overhead costs cannot be passed on to the requesting party.

3. If we estimate 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 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.
4. 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 upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs. Should you request an estimate we will not proceed to provide the requested records until you inform us that you want to proceed with the request as submitted. Once you provide us with the go ahead to produce the records, we will have five days to do so.
5. If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, [the Department] may require payment of the past-due bill before it will respond to your new FOIA request.

Commonly used exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. [The Department] commonly withholds records subject to the following exemptions:

1. Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
2. Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
3. Vendor proprietary information (§ 2.2-3705.1 (6))
4. Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
5. Information made confidential under other laws such as taxpayer and social security numbers.

There are over 100 types of records that may be excluded in whole or in part from production. The exclusions are found in Virginia Code §2.2-3705.1 through 2.2-3705.7

If you have any questions, they may be answered by contacting the County's FOIA Administrator, Leslie R. Weddington. In addition, the Virginia Freedom of Information Council is available to answer questions. The Council may be contacted by email at foiacouncil@leg.state.va.us or by phone at (804) 225-3056 or [toll free] 1-866-448-4100.

Virginia Freedom of Information Act

Fee Schedule

Reasonable charges may be made to the requester in order to recover the County's actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen. Generally applicable charges are as follows:

1. Copy Charge: \$0.25 per copy
2. Postage: At cost
3. Personnel Time:

If requested records can be retrieved from departmental files and copied in less than fifteen (15) minutes, there will be no charge for personnel time. If fifteen (15) minutes or longer is required to search for, retrieve and copy requested records, a charge for personnel time will be assessed.

The charge for personnel time shall be computed by determining the hourly rate of pay of County staff responding to the request and multiplying that rate by the number of hours, or portions thereof, spent on the response. Rates charged shall be appropriate for the work actually performed. For example, time spent making copies shall be charged at the pay rate for an office associate or similar position in the responding department, not as a professional pay rate. Hourly rates for the support staff typically range from \$20.99 to \$21.43.

4. Other Charges

The County shall not impose any extraneous, intermediary or surplus fees or expenses to recoup the general costs associated with creating or maintain records or transacting the County's general business. Questions concerning the appropriateness of charges other than those set forth in subsections (1) and (2) above shall be directed to the FOIA Administrator.