



# **COUNTY OF AMELIA FOIA GUIDANCE**

## **Rights and Responsibilities**

### **The rights of requestors and the responsibilities of the county under the Virginia Freedom of Information Act.**

The Virginia Freedom of Information Act (FOIA), Code of Virginia §2.2-3700, 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 records, an electronic file, an audio or video recording, or in 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 furtherance of 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**

If you are a citizen of the Commonwealth or a member of the media, 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 your FOIA rights have been violated, you may file a petition in the circuit court of Amelia to compel compliance with FOIA. You may also contact the FOIA Council for a nonbinding advisory opinion.

## **Making a Request for Records**

You may request records by U.S. Mail, email, 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. The county may require you to provide your name and legal address, as allowed under FOIA.

You may be asked to make your request in writing in order to obtain a clear statement of what records are being sought and to avoid a misunderstanding of a verbal request. However, the County cannot refuse to respond to your FOIA request if you elect to not put it in writing.

Your request must identify the records you are seeking with “reasonable specificity”. It does not limit the number or volume of records you are requesting. It only requires that your request be specific enough to identify and locate the records. The County may need to discuss your request to ensure understanding of what records are being requested. Please cooperate with staff members efforts to clarify the type of records you are seeking. Making a FOIA request is not an adversarial process.

Your request must ask for existing documents or records. FOIA gives you a right to inspect or copy records; it does not require the county to create a record that does not exist.

The reason behind your request for public records from the county is irrelevant and you do not have to state why you want the records before the County responds to your request.

Amelia County’s elected constitutional officers, *i.e. Commonwealth’s Attorney Sheriff, Treasurer, Commissioner of the Revenue, and Clerk of the Circuit Court*, as well as the County’s Electoral Board and 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.

## **Responding to a FOIA Request**

The county must respond to your request within five working days of receiving the request. “Day One” is considered the day after the request is received. The five-day period does not include weekends, holidays, or other days on which the county offices are closed for other reasons, such as weather. FOIA requires the county make one of the following responses to your request within the five days:

- Provide you with the records requested
- Provide a written response with an explanation of why records are withheld; to include the specific statutory exemption
- Provide a written response if some records are withheld, while others are provided. An entire record cannot be withheld if only a portion is subject to exemption. The County may redact that portion of the record that is withheld and provide the remainder.
- Provide a written response that records do not exist.
- Provide a written response under FOIA allowing for an additional seven working days to respond to the request. This scenario is used if it is not practicable for the county to provide the records in the first five days.

❖ If a request is made and the county is unable to provide the records to you within 12 working days without disrupting organizational responsibilities, the County may

petition the court for more time to respond to your request. However, FOIA requires that the County make a reasonable effort to reach an agreement with you concerning the production of the records before going to court to ask for additional time.

## **Costs**

You may be required to pay for records requested from Amelia County. FOIA allows us to charge for the actual costs of responding to FOIA requests as set forth in subsection F of §2.2-3704 of the Code of Virginia:

*“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. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records”*

FOIA allows us to charge for the actual costs of responding to FOIA requests. This includes items like staff time searching for the requested items, copying costs, and any other costs directly related to supplying the requested records. If the County estimates that it will cost more than \$100 to respond to your request, you may be required to pay a deposit before proceeding with your request. The five-day response time does not include the time between when the County asks for a deposit and when you respond. You may request that the County provide you with an estimate in advance of the charges incurred to process your FOIA request.

If Amelia County does not receive payment for FOIA records provided, any future FOIA request records may be delayed until the previous balance is paid in full.

## **Types of Records**

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

1. Personnel records concerning employees and officials of the County
2. Records of contracts which the County has entered into
3. Budget records
4. Records showing receipts and expenditures of the County
5. Real estate records, such as leases, easements, deeds, and records related to the acquisition or sale of such property
6. Law enforcement records and other records of both internal and external investigations
7. Building, planning, transportation, and other community development records
8. Agendas, agenda items, minutes, and other records of the meeting of the Board of Supervisors Planning Commission, and other governmental bodies appointed by the Board of Supervisors

9. Records of County fleet vehicles, solid waste management, and security management
10. Records related to Parks and Recreation and services offered by that department
11. Information System Technology records
12. Tax and licensing records

If you are unsure whether the County has the records you seek, you may contact the FOIA Officer or the department which you think may have the records

## **Commonly Used Exemptions**

The Code of Virginia allows any public body to withhold certain records from public disclosure. The County commonly withhold records subject to the following exemptions, but may also withhold records for other applicable 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. Records of criminal investigations (§2.2-3706(A)(2)(a))
6. Tax records (§58.1-3)
7. Appraisals and cost estimates of real property subject to a proposed sale, purchase, or lease (§2.2-3705.1(8))
8. Records relating to business, trade, or tourism development or retention when release of the information would adversely affect the financial interest of the County (§2.2-3705.6 (3))
9. Records requested by individuals who are not citizens of Virginia or representatives of the media (§2.2-3704 (A))

Since exemptions exist in order to protect some compelling public interest (such as privacy of individuals, criminal investigations, or the County's bargaining position in an ongoing negotiation or discussion), it is inevitable that the County will need to rely on exemptions in many cases. For that reason, it is the County's practice to invoke all exemptions that are applicable to any request for records. This practice ensures that we treat all citizens the same way, to the greatest extent possible.

## **FOIA Contact for Amelia County**

**County Administrator**, FOIA Officer, 804-561-3039, [Info@ameliacova.com](mailto:Info@ameliacova.com)

**Lee R. Harrison**, Commonwealth Attorney, 804-561-3302, [lee.harrison@ameliacova.com](mailto:lee.harrison@ameliacova.com)

**Marilyn Wilson**, Circuit Court Clerk, 804-561-2128, [mwilson@courts.state.va.us](mailto:mwilson@courts.state.va.us)

**Ricky L. Walker**, Sheriff, 804-561-2118, [rlwalker@ameliasheriff.org](mailto:rlwalker@ameliasheriff.org)

**Stephanie Coleman**, Treasurer, 804-561-2145, [stephanie.coleman@ameliacova.com](mailto:stephanie.coleman@ameliacova.com)

**Laura Walsh**, Commissioner of Revenue, 804-561-2158, [laura.walsh@ameliacova.com](mailto:laura.walsh@ameliacova.com)

**Registrar**, 804-561-3460, [voter.registrar@ameliacova.com](mailto:voter.registrar@ameliacova.com)

**Keith McFarlane**, James L. Hamner Library, 804-561-4559, [circulation@hamnerlibrary.org](mailto:circulation@hamnerlibrary.org)