

County of Albemarle



401 McIntire Road
Charlottesville, VA 22902-4596

FREEDOM OF INFORMATION ACT REQUEST FORM (Please type or print.)

Date of Request: _____

Requester Information:

Name: _____

Address: _____

Daytime Phone Number: _____

Email (Optional): _____

Describe with reasonable specificity the public records you are requesting:

How would you like to receive the records?

- Review records at the County office
- Pick up records from the County office
- Mail (not available for large requests)
- Fax to the following fax number: _____ - _____ - _____
- Electronic format and delivery (may not be available for all requests)

Reasonable costs for photocopying, searching, and supplying the records will be charged per County Administrative Policy AP-12.

Check here to request an advanced estimate of cost *

*Staff time to create an estimate will not be charged, but an estimate may delay the production of your records.

By submitting this request, I acknowledge that Virginia law allows the County of Albemarle five (5) business days to respond to a FOIA request unless the County requires additional time to provide a response.

Signature: _____

Date: _____

For County Staff Use Only

Photocopy Charge _____ pages X _____ = _____
Billable Staff Hours _____ hour X _____ = _____
Print Charge _____ pages X _____ = _____
Media Charge (CD, DVD, etc.) _____ = _____

Staff Contact: _____

Date Response Provided: _____

If a request is denied in part or in whole, see AP-12 for response requirements.

COUNTY OF ALBEMARLE



Administrative Policy AP-12

FREEDOM OF INFORMATION ACT REQUESTS

Albemarle County is committed to providing Virginia citizens timely and full access to its public records in accordance with the Virginia Freedom of Information Act ("FOIA"), Virginia Code §§2.2-3700 *et seq.* This policy seeks to balance that commitment with the County's responsibility to manage its fiscal and employee resources in a prudent and cost-effective manner.

I. PUBLIC RECORD REQUIREMENTS

A. Requests Covered by this Policy

This policy establishes the procedures to be followed for all public record requests. Albemarle County recognizes, however, that on a daily basis citizens and members of the media make informal requests for simple public information, such as the phone number of a County official. Such routine requests for information need not be handled as formal FOIA requests unless indicated otherwise by the requester. In any unclear situation, the County employee should ask the requester whether he or she wishes to make a formal FOIA request.

B. Scope of FOIA's Public Record Requirements

1. Public Record Requirements

As a public body, Albemarle County must provide Virginia citizens the opportunity to inspect and copy all of its public records. FOIA does not require public bodies to create new public records, compile or summarize data, or provide pure information in response to any request. Rather, public bodies must make existing public records open for inspection and copying when those records have been identified with reasonable specificity. In many instances, however, the County will provide information to the public beyond the requirements of FOIA, when doing so would further the County's goals and not impair normal operations.

2. Definitions under FOIA for Public Record Requests (Not Meetings)

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 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.

A "public body" for purposes of this policy means the County Board of Supervisors, Planning Commission, Board of Zoning Appeals, and all other County boards and authorities; each department of the County; constitutional officers of the County; and all committees created by the Board of Supervisors to perform delegated duties of the Board or to advise the Board. In addition, any entity that receives its funding wholly or principally from the Commonwealth is considered a public body.

C. Certain Records Exempt from FOIA

All public records are presumed to be open, and may be withheld only if a specific, statutory exemption applies. Although FOIA provides numerous statutory exemptions, those most often relevant to the County are the following:

1. Personnel records containing information concerning identifiable individuals (§2.2-3705.1). This exemption does not apply to the individual who is the subject of the personnel records.
2. Identifying information regarding individuals filing zoning enforcement complaints in confidence (§2.2-3705.3(10)).
3. Certain criminal investigative, prosecutorial, and noncriminal records maintained by law-enforcement agencies (§2.2-3706).
4. Certain investigative, personally identifiable, and other information maintained by the Department of Social Services (§2.2-3705.5).
5. Closed meeting materials that have been recorded or compiled exclusively for use in a lawfully held closed meeting (§2.2-3705.1(5)).
6. Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1(12)).
7. Records subject to attorney-client privilege (§2.2-3705.1(2)) or attorney work product (§ 2.2-3705.1 (3)).
8. Working papers and correspondence of the County Executive (§2.2-3705.7(2)).
9. Vendor proprietary information software (§ 2.2-3705.1(6)).

Before denying any request for records based on a statutory exemption, employees must consult the County Attorney's Office to ensure compliance with FOIA, unless the County Attorney's Office has previously advised the agency that it may make such denials without individualized approval. Records protected by copyright may always be inspected; however, departments shall refer any requests to photocopy copyright-protected records to the County Attorney's Office.

II. REQUESTS FOR PUBLIC RECORDS

A. Positions Responsible for FOIA Compliance

1. Department Heads. Department heads shall designate an employee who will be primarily responsible for receiving and responding to FOIA requests. Whenever a FOIA request requires the retrieval of records from multiple departments, the County Executive or the Board of Supervisors, or the request relates to a matter of County-wide significance, department heads shall promptly consult the County Executive's Office concerning the request. Department heads shall be responsible for ensuring that responses to FOIA requests comply with FOIA and this policy.
2. County Attorney's Office. All employees responsible for responding to FOIA requests shall consult with the County Attorney's Office on any question regarding the legal requirements of FOIA. Before denying any request for records based on a statutory exemption, employees must consult the County Attorney's Office to ensure compliance with FOIA, unless the County Attorney's Office has previously advised the agency that it may make such denials without individualized approval.
3. Community Relations Manager (Media Requests). The Community Relations Manager will generally serve as the single point of contact and responding County official for all FOIA requests made by the news media. Department heads and employees receiving FOIA requests from the media shall contact the Community Relations Manager in order to coordinate a response. The Police Department, Sheriff, and Charlottesville-U.Va.-Albemarle County Emergency Communications Center (ECC) shall contact the Community Relations Manager to coordinate a response only to those FOIA requests that involve critical incidents, as defined by AP-5, Media Relations/Public Information.

4. All Employees. All other employees receiving a FOIA request should follow the procedures of his or her department to ensure that the request is referred promptly to the appropriate, designated individual within the department.

B. Format of Requests

1. Eligibility. Any Virginia citizen may request public records simply by asking for records by U.S. mail, fax, e-mail, in person, or over the phone. The requester need not mention FOIA or state that he or she is making a FOIA request. Virginia citizenship will be satisfied by providing a valid current residential or business address located in Virginia. In no event shall a County employee seek information regarding U.S. citizenship or immigration status in order to respond to a FOIA request.
2. Written Requests. The requester will be asked, but not required, to put the request in writing, using the form created by the County Executive's Office. This allows the County to understand what records are being requested, and to track and maintain all requests. In the alternative, the receiving employee may complete a FOIA request form on behalf of the requester after obtaining all necessary information from the requester. If this alternative is chosen, the employee should confirm the accuracy of the request with the requester.
3. Reasonable Specificity. The request must identify the records being sought with "reasonable specificity." This does not mean that the requester must specify the volume, number, or location of the records, but simply that the request must be specific enough for the County to identify and locate the records.
4. Clarification. County staff should understand that a requester may not be required to disclose the reason for his or her request. Staff may, however, ask any questions needed to provide the requester the desired records, clarify the request, or attempt to reach a reasonable agreement about a response to a large request.

III. RESPONSES TO REQUESTS FOR PUBLIC RECORDS

A. Timeframe and Basic Requirements for Responses

1. Timeframe. Albemarle County must respond to a FOIA request within five (5) working days of receiving it. The five-day period does not include weekends or holidays. The five-day period begins on the first working day following the day the request is received by the employee and ends at the close of business on the fifth working day. Any time that elapses between the time the requester is notified of an advance cost determination pursuant to the procedures detailed below and the time the requester responds to that notice shall not be counted in calculating the five work days.
2. One of Five Basic Responses Required. By the fifth working day following receipt of a request, County staff must provide at least one of the following responses:
 - a. The records shall be made available to the requester for inspection, or copies thereof may be provided in lieu of inspection.
 - b. The requested records will be entirely withheld because their release is prohibited by law or because FOIA gives their custodian discretion to withhold them. A written explanation identifying with reasonable particularity the volume and subject matter of the withheld records and with respect to each category withheld, referencing the code section containing the specific applicable exemption(s), shall be included.
 - c. The requested records will be provided in part and withheld in part because the release of part of the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of the records. A written explanation identifying with reasonable particularity the subject matter of the withheld portions and referencing, with respect to

each category of withheld records, the specific code section(s) which authorize the withholding of records, shall be included.

- d. The requested records cannot be found or do not exist (the County does not have the records requested). However, if staff knows that another public body does have the requested records, contact information for the other public body must be included in the response.
 - e. The County cannot determine the status of the records within the five-day period, or it is practically impossible to provide the records within the five-day period. If so, staff shall describe briefly the specific conditions which make a response within the five-day period impossible. In addition, within seven (7) additional days following the provision of this response, the division must provide one of the substantive responses in paragraphs (a) through (d) above.
3. Other Agreements. The above timing requirements will not apply if the County employee and the requester reach an agreement that the records will be provided later than 5 working days after receipt of the request. In such cases, staff must document the agreed upon date for providing the records.

B. Format and Provision of Records

1. Provision of Records (Not Electronic Records). Records will be made available for inspection at the applicable County Office Building during regular business hours. If the requester wishes to have a copy of the records, the responding County department will make the copies available for pick-up at the County Office Building during regular business hours or, if the records are not voluminous, mail them to the requester by first-class mail.
2. Provision of Records (Electronic Records). Individuals may request copies of any nonexempt public records maintained in an electronic format by the County. Such records shall be reproduced in any tangible medium or format identified by the requester that is regularly used in the ordinary course of business by the County, including posting the records on a website, burning them to a CD, or delivering the records through an electronic mail address provided by the requester.

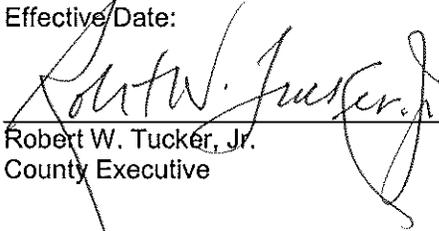
The requester may choose to receive non-exempt electronic records in any format used by the County in the regular course of business. For example, if the requester is requesting records maintained in an Excel database, the requester may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records.

C. Costs for Providing Records

1. Bases for Costs. FOIA allows public bodies to make reasonable charges not to exceed the actual costs of responding to FOIA requests in order to ensure that taxpayer funds are used appropriately for public purposes. Specifically, FOIA permits charging requesters for the staff time spent "accessing, duplicating, supplying, or searching for the requested records," and for the costs directly related to supplying the records, such as photocopying and CD costs. Attorney review time may not be charged. In addition, the County may not 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."
2. Particular Charges. Generally, there will be no charge for simply viewing or inspecting an official document. In all other instances, the following costs will apply to the provision of records:
 - a. Copies of documents and print-outs from electronic documents: Five (5) pages or fewer: no charge. Six (6) or more pages: per page charge based on the estimated actual cost of reproduction/printing per page as determined periodically by the County Executive's Office. If photocopying must be performed by a non-County vendor, the per page charge of the vendor will be used.

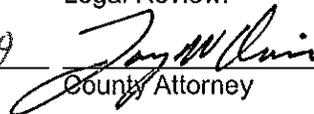
- b. Staff time (County agencies in general): When 30 minutes or more time is required to access, duplicate, supply, or search for the requested public records, the requester will be charged for the actual time spent by County staff calculated in fifteen minute increments. For example, a response that requires 30 minutes of staff time to retrieve and photocopy documents will incur a charge for 30 minutes, and a response that requires 1 hour of staff time will incur a charge for 1 hour. These charges will reflect the employee's base hourly rate unless the request had to be completed by an employee working overtime, in which case the charge will reflect one and a half times the employee's base hourly rate. For requests that require less than 30 minutes of staff time, the requester will not be charged for staff time.
 - c. Staff time (County agencies deemed "high-volume" agencies): For all County agencies deemed by the County Executive to receive a high volume of FOIA requests, the procedures of section 2(b) will apply, except that staff shall charge whenever 15 minutes or more time is required to access, duplicate, supply, or search for the requested records. Therefore, a response that requires 15 minutes of staff time to retrieve and photocopy documents will incur a charge for 15 minutes, and a response that requires 1 hour of staff time will incur a charge for 1 hour. The ECC shall follow the fee guidelines approved by the ECC Management Board.
 - d. Materials: For responses provided in an electronic medium, the County will charge the cost of the medium (i.e. CD, DVD, etc.).
3. FOIA Payment Accounts. Payment for FOIA requests may be made by check payable to the County of Albemarle. Cash payments may be made at the Department of Finance cashier window or to a department directly, if the department has a petty cash fund established for such payments. Department heads will be responsible for depositing all payments received for FOIA requests with the Department of Finance, using the designated FOIA account budget code: 2-1000- 19000-190253.
 4. Estimates and Deposits. If the requester has asked for an advance determination of the cost, or if the cost is expected to exceed \$200.00, the County may, before continuing to process the request, require the requester to agree to payment of a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. No further action shall be taken until the requester responds, and the requester must agree to pay the estimated amount before any further processing of the request is performed. If money is owed from a previous FOIA request that has remained unpaid for more than 30 days, the County may require payment of the past-due bill before it will respond to a new FOIA request.
 5. No Charges for Voluntary Research. If the County offers to create a new public record or summary to respond to a request in lieu of providing existing public records, the County will not charge the requester the additional staff time incurred in creating the new public record or summary unless the County reaches an agreement with the requester to pay for the staff time.
 6. Questions about Permissible Charges. Questions regarding the permissibility of charges should be referred by department heads to the County Attorney's Office.

Issued:
Effective/Date:


Robert W. Tucker, Jr.
County Executive

10 Nov 09
Date

Legal Review:


County Attorney

11-12-09
Date