

# **Rights & Responsibilities:**

## **The Rights of Requesters and the Responsibilities of Hanover County under the Virginia Freedom of Information Act**

The Virginia Freedom of Information Act (FOIA), Title 2.2, Chapter 37, Sections 2.2-3700 through 2.2-3714 of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records in the possession of public bodies, public officials and public employees or agents.

Public records include any writing or recording, in any format (including handwritten notes, typewritten documents, paper records, electronic files, text messages and audio or video recordings), 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 purpose of FOIA is to ensure the people of the Commonwealth ready access to public records in the possession of a public body or its officers and employees, and free entry to meetings of public bodies. In order to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government, the provisions of FOIA are to be liberally interpreted and any exemption from public access is to be narrowly interpreted.

### **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 FOIA rights have been violated, you may file a petition in general district or circuit court to compel compliance with FOIA. Alternatively, you may contact the Virginia FOIA Advisory Council for a nonbinding advisory opinion.

### **Making a Request for Records from Hanover County**

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor must you state that you are requesting records under FOIA.
  - 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 County staff a clear statement of what records you are requesting. However, County staff must respond to your request regardless of whether it's in writing.

- Your legal name and address will be required. It is also helpful if you provide contact information such as your phone number and e-mail address so that County staff may quickly contact you if necessary to request clarification or provide an estimate of costs.
- 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 can request; instead, it requires that you be specific enough so that County staff can identify and locate the records that you are seeking.
- Your request must ask for existing public records. FOIA gives you the right to inspect or copy existing public records. It does not require the County to answer questions, create a new record that does not exist, summarize existing records, or provide records in a format in which they do not exist. County staff welcomes your questions and will make every effort to answer them, however FOIA does not require a response to questions.
- You may choose to receive electronic records in any format used by Hanover County in the regular course of business.
  - For example, if you are requesting records maintained in an Excel database, you may choose to receive those records electronically (by e-mail or on a computer disk or thumb drive), or as printed paper copies.
- County staff may need to discuss your request with you to ensure that staff understands what records you are seeking. Please cooperate with staff's efforts to clarify the records that you are seeking or to attempt to reach a reasonable agreement about a response to a large request.

**Where to Submit Request**

Hanover County encourages you to direct your request to the County department that maintains the records you seek. Contact information for all County departments is listed on the County’s web site at [www.hanovercounty.gov](http://www.hanovercounty.gov) under “Your Government” and “Departments,” or you may call the County Administrator’s Office at (804) 365-6005 for department contact information.

If you don’t know which department maintains the records you seek, if you seek records from multiple departments, or if you are seeking records from a member or members of the Board of Supervisors, please make your request directly to the County FOIA Officer. You may contact the County FOIA Officer by mail, fax, phone or e-mail.

**By mail:** Tom Harris, County FOIA Officer  
 P.O. Box 470  
 7516 County Complex Road  
 Hanover, VA 23069

**Fax:** (804) 365-6234

**Phone:** (804) 365-6005

**E-mail:** [tharris@hanovercounty.gov](mailto:tharris@hanovercounty.gov)

### **Hanover County's Responsibilities in Responding to Your Request**

- Hanover County must respond to your request within 5 working days of receiving it, beginning the day after your request is received. The 5-day period does not include weekends or holidays.
- The reason for your request for public records is irrelevant, and you are not required to state why you want the records.
- FOIA requires that the County make one of the following responses to your request within the 5-day time period:
  - 1) Provide you with the records that you have requested in their entirety.
  - 2) 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, County staff 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 the requested records to be withheld.
  - 3) Provide some of the records that you have requested, but withhold other records. County staff cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, staff may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. Staff 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.
  - 4) Inform you in writing that the requested records cannot be found or do not exist or are not in the possession of the County, its officers, employees or agents. However, if staff knows that another public body has the requested records, staff must provide you with contact information for the other public body.
  - 5) If it is practically impossible for County staff to respond to your request within the 5 day period, staff must state this in writing, explaining the conditions that make the response impossible. This will allow staff 7 additional working days to respond to your request, allowing a total of 12 working days to respond to your request.
- If you request a very large number of records, and County staff cannot provide the records to you within 12 working days without disrupting other organizational responsibilities, staff may petition the court for additional time to respond to your request. However, before petitioning the court for more time, FOIA requires that staff make a reasonable effort to reach an agreement with you concerning the production of the records.

## Costs

- 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 section 2.2-3704 of the Code of Virginia.
- If you will be charged for your request, County staff will provide you with an estimate for approval before your request is processed. Staff will not process your request until you have agreed to the estimate. The 5 day response period is tolled from the time staff provides you with the estimate until you approve the estimate.
- Actual costs are determined by multiplying the hours of staff time by the hourly rate (excluding benefits) of the employee(s) processing the request, and adding any supply costs (such as photocopy costs, cost of thumb drive or disk, etc.), except charges for the first 60 minutes of personnel time and the first 20 photocopies per request will be waived. After the fifth request in a calendar year from the same individual, charges for the first 60 minutes and first 20 photocopies will no longer be waived.
- If the County estimates that costs will be under \$200, staff will provide you with an invoice for costs with the requested records. Invoices must be paid within 30 days of receipt.
- If the County estimates that costs will exceed \$200, a deposit will be required prior to processing your request. The 5 day response period is tolled from the time staff requests the deposit until you pay the deposit. The deposit may not exceed the estimated charges and will be credited toward the final cost of supplying the requested records. Should the actual cost be less than the deposit, you will be refunded the difference. If costs are estimated to exceed \$200, the County may require a deposit in the full amount of the estimate, or may require a deposit in a lesser amount and the balance paid before the records are provided.
- Before responding to a new request, Hanover County may require payment of any amounts owed for previous requests that remain unpaid for 30 days or more.

## **Types of Records**

The following is a general description of some of the types of public records maintained by Hanover County:

- Personnel records concerning employees and officials of Hanover County
- Records of contracts which Hanover County has entered into
- Procurement records
- Budget records
- Records showing receipts and expenditures of the County
- Real estate records, such as leases, easements, deeds, and records related to the acquisition or sale of real property
- Building, planning, transportation, and other community development records
- Social services records
- Agendas, agenda items, meeting minutes, and other records of the meetings of the Board of Supervisors, Planning Commission, and other governmental bodies
- Records of the County Airport, County Fleet of vehicles, solid waste management
- Records related to Parks & Recreation and services offered by that department
- Tax and licensing records
- All other types of records commonly kept by a local government

If you are unsure whether Hanover County maintains the record(s) you seek, please contact the County FOIA Officer at (804) 365-6005 or [htharris@hanovercounty.gov](mailto:htharris@hanovercounty.gov).

### **Commonly Used Exemptions**

The Code of Virginia allows a public body to withhold certain records from public disclosure. (See Virginia Code section 2.2-3705.1 and the following sections.) Certain state and federal laws outside of FOIA also prohibit disclosure of specific types of records and specific types of information contained in records. Hanover County commonly withholds records subject to the following exemptions and prohibitions, but may also withhold records when other applicable exemptions and prohibitions apply:

- 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 software (§ 2.2-3705.1(6))
- Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to completion of such purchase, sale or lease (§ 2.2-3705.1(8))
- Names, addresses, and telephone numbers of complainants furnished in confidence in alleged zoning and building inspection violations (§ 2.2-3705.3(9))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1(12))
- Tax records (§§ 58.1-3, 2.2-3705.7(1))
- Public utilities customer account information (§ 2.2-3705.7(7))
- Social service records (§§ 63.2-102 through 63.2-105)
- Health records (§ 2.2-3705.5(1))
- Social security numbers (§§ 2.2-3808.1, 24.2-407.1)

### **Policy Regarding the Use of Exemptions**

Hanover County withholds any records that are prohibited from disclosure by law. Because exemptions exist in order to protect a compelling public interest (such as the privacy of individuals or the County's bargaining position in an on-going negotiation), it is the County's practice to withhold records when an exemption applies.

### **For More Information About FOIA**

Freedom of Information Advisory Council, <http://foiacouncil.dls.virginia.gov/>

Email: [foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov)

Phone: (804) 225-3056 or 1-866-448-4100 (toll free)

Any requester can make an online comment on the quality of assistance provided by the public body on the Freedom of Information Advisory Council's website by visiting <http://foiacouncil.dls.virginia.gov/sample%20letters/welcome.htm>