



VIRGINIA FREEDOM OF INFORMATION ACT

RIGHTS OF REQUESTERS & RESPONSIBILITIES OF THE CITY OF BUENA VISTA

The Virginia Freedom of Information Act (FOIA), located in § 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.

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 FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. 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.

YOUR FOIA RIGHTS

- You have the right to request to inspect or receive copies of public records, or both.
- You may request that any charges for the requested records be estimated in advance. As of July 1, 2022, public bodies must 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 they would like to request a cost estimate in advance of the supplying of the requested records.
- 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 CITY OF BUENA VISTA

- You may request records by U.S. Mail, fax, email, in person, or over the phone—FOIA does not require that you use any particular method to convey your request. FOIA also does not require that your request be in writing, nor do you need to state that you are requesting records pursuant to 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 us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request if you elect not to put it in writing.
- 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. 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 City of Buena Vista, nor does it require the City of Buena Vista to create a record that does not exist.
- You may choose to receive electronic records in any format used by the City of Buena Vista 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 email, on a computer disk or flash drive, or to receive a printed copy of those records.
- 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.

To request records from the City of Buena Vista, you may direct your request to Sarah Burch. She can be reached in person or by mail at City Hall, 2039 Sycamore Avenue, Buena Vista, VA 24416; by phone at 540-261-8601; or by email at sarah.burch@bvcity.org. You may also contact her with questions you may have concerning requesting records from the City of Buena Vista.

In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about how FOIA works. The Council was created in the legislative branch of state government to issue opinions on the operation and application of FOIA, to publish educational materials, and to provide training about FOIA. However, please be aware that the Council is not a records repository and does not process records requests on behalf of other public bodies, nor is the Council an investigative or enforcement agency. The Council may be contacted by email at foiacouncil@dls.virginia.gov, or by phone at 804-698-1810 or toll free at 1-866-448-4100.

THE CITY OF BUENA VISTA'S RESPONSIBILITIES IN RESPONDING TO YOUR REQUEST

The City of Buena Vista 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, holidays, or other days when the City of Buena Vista is closed for business.

The reason behind your request for public records from the City of Buena Vista is irrelevant, and you do not have to state why you want the records before we respond to your request. FOIA does, however, allow the City of Buena Vista to require you to provide your name and legal address.

FOIA requires that the City of Buena Vista make one of the following responses to your request within the five-day time period:

1. *We provide you with the records that you have requested in their entirety.*
2. *We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption.* If all 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.
3. *We provide some of the records that you have requested but withhold other records. We cannot withhold an entire records if only a portion of its 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.
4. *The requested records cannot be found or do not exist (we do 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 written response to you.
5. If it is practically impossible for the City of Buena Vista to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the request impossible. This will allow us an additional seven (7) working days to respond to your request, giving us a total of 12 working days to respond to your request. In the case of criminal investigative

files requested pursuant to § 2.2-3706.1 of the Code of Virginia, we are allowed an additional 60 working days to respond to your request, giving us a total of 65 working days to respond to your request.

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.

CHARGES

The City of Buena Vista may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. The City of Buena Vista shall 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 City of Buena Vista. Any duplicating fee charged shall not exceed the actual cost of duplication. Prior to conducting a search for records, the City shall notify the requester in writing that we may make reasonable charges not to exceed our actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether they would like to request a cost estimate in advance of the supplying the requested records as set forth in subsection F of § 2.2-3704 of the Code of Virginia.

WHAT WE MAY CHARGE FOR

- Searching for records – first two hours are free
- Copying records – first 100 pages are free
- Reviewing records – for commercial use requests only
- Materials – e.g., USB drives, CDs, postage

FEE RATES

- Search/review time – based on staff hourly rate
- Copies – 25¢ per page
- Other media/delivery – charged at actual cost

WHEN PAYMENT IS REQUIRED

- We will notify you if estimated fees exceed \$100
- We may require advance payment or deposit if:
 - Estimated cost exceeds \$200; or
 - You have an unpaid balance from a past 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. If you do not respond within 30 days, your request will be deemed to be withdrawn.

FEE WAIVERS

- Fee waivers may be granted if the requested information is in the public interest and not primarily for commercial use. All waiver requests must include a justification.

TYPES OF RECORDS

The following is a general description of the types of records held by the City of Buena Vista:

- Meeting records – minutes, agendas, recordings, votes

- Contracts and procurement documents – bids, awarded contracts, purchase orders
- Financial documents – budgets, audits, expenditure reports
- Personnel-related records (limited) – job titles, salaries, employment contracts (sensitive personal details exempt)
- Policies and procedures – manuals, guidelines, administrative regulations
- Correspondence – emails, letters, memos related to public business
- Permits, licenses, applications, or reports filed with the City of Buena Vista

If you are unsure whether the City of Buena Vista has the record(s) you seek, please contact Sarah Burch directly, in person or by mail at City Hall, 2039 Sycamore Avenue, Buena Vista, VA 24416; by phone at 540-261-8601; or by email at sarah.burch@bvcity.org.

COMMONLY USED EXEMPTIONS

The Code of Virginia allows any public body to withhold certain records from public disclosure. The City of Buena Vista commonly withholds records subject to the following exemptions:

- Personnel records (beyond basic employment information) (§ 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)).
- Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711 (§ 2.2-3705.1 (5)).
- Proprietary or confidential business information (§ 2.2-3705.1 (6)) or certain proprietary records and trade secrets (§ 2.2-3705.6).
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12)).
- Account numbers or routing information for any credit card, debit card, or other account with a financial institution (§ 2.2-3705.1 (13)).
- Certain records pertaining to public safety (§ 2.2-3705.2).
- Certain records pertaining to administrative investigations (§ 2.2-3705.3).

POLICY REGARDING THE USE OF EXEMPTIONS

PURPOSE

The purpose of this policy is to ensure that exemptions under the Freedom of Information Act (FOIA) (§ 2.2-3700 et. seq., Code of Virginia) are applied consistently, lawfully, and narrowly, while maintaining the public body's commitment to openness and transparency.

GENERAL PRINCIPLES

- Presumption of Openness
 - All public records are presumed open to inspection and copying unless a specific exemption applies.
 - Exemptions are discretionary, not mandatory, except where disclosure is otherwise prohibited by law.
- Narrow Application
 - Exemptions will be interpreted narrowly, and the City of Buena Vista will release as much of a record as possible.

- When practicable, exempt portions of a record will be redacted, and the remainder released.
- Consistency
 - The City of Buena Vista will apply exemptions consistently across requests to promote fairness and predictability.

PROCEDURES

- Review of Records
 - Upon receiving a FOIA request, the City of Buena Vista will review responsive records to determine whether any exemptions apply.
 - Legal counsel may be consulted for sensitive or complex matters.
- Partial Disclosure
 - If only portions of a record are exempt, those portions will be withheld or redacted, with the remainder released.
- Written Explanation
 - When an exemption is invoked, the City of Buena Vista will provide you with:
 - A written citation of the specific FOIA exemption relied upon; and
 - A general description of the records withheld (unless such description itself would reveal exempt information).
- Documentation
 - The FOIA Officer will maintain a record of all exemptions applied, including the date, requestor, exemption cited, and justification.
 - This log will be reviewed periodically to ensure that exemptions are used appropriately.

ACCOUNTABILITY

- This policy will be reviewed annually by the City of Buena Vista.
- Training will be provided to staff on FOIA requirements and the appropriate use of exemptions.
- Any misuse or overuse of exemptions will be addressed promptly to preserve public trust.