

Under the **Virginia Freedom of Information Act (FOIA)**, citizens of the Commonwealth and representatives of the media have the right to examine public records.

## **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 district or circuit court to compel compliance with FOIA. Alternatively, you may contact the FOIA Council for a nonbinding advisory opinion.

## **How to make a FOIA request**

You may submit a records request in several ways:

- **Email:** foia@petersburg-va.org
- **Fax:** 804-732-9212
- **U.S. Mail:** FOIA Request, Attention: Joe Preston, City Attorney, City Attorney's Office, 135 North Union Street, Petersburg, VA 23803
- **In person:** 135 North Union Street, 2nd Floor, Petersburg, Virginia 23803

## **Fulfilling your request**

The City of Petersburg will 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.

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

- Provide the records that you have requested in their entirety.
- Withhold all of the records requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, a response in writing will be sent with an explanation of the exemption. The response will identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows the records to be withheld.

- Provide some of the records that you have requested, but withhold other records. An entire record will not be withheld only if a portion of it is subject to an exemption. In that instance, the portion of the record that may be withheld will be redacted, the remainder of the record will be provided. A written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld will be sent.
- Inform you in writing that the requested records cannot be found or do not exist. However, if we know that another public body has the requested records, contact information for the other public body will be included in the response.
- If the City of Petersburg cannot respond to a request within the five-day period, you will be informed 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 12 working days to respond to your request.

If you make a request for a very large number of records, and it is determined that it cannot be provided within 12 working days without disrupting our other organizational responsibilities, the City 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**

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.

- If the estimated cost is more than \$200, a deposit will be required (not to exceed the amount of the estimate), before proceeding with your request. The five days to respond to a request does not include the time between when we ask for a deposit and a response from the requestor.
- All deposits shall be paid by check or money order made payable to the City of Petersburg and delivered to the City Attorney's Office. Checks and money orders will be held and only deposited once the request is complete. Any outstanding balance due must be paid before or at the time the responding records are released.

- Costs include items such as staff time, copying costs or any other costs directly related to supplying the requested records. It will not include general overhead costs.
- If requested, an estimate of the charges will be provided prior to supplying the records requested. This will allow you to know about any costs upfront, or give the opportunity to modify your request in an attempt to lower the estimated costs.
- If money is owed from a previous FOIA request that has remained unpaid for more than 30 days, the City of Petersburg may require payment of the past-due bill before responding to a new FOIA request.

## **General Guidelines**

- A request must identify the records needed with “**reasonable specificity.**” It does not refer to or limit the volume or number of records requested; instead, it requires that a request be specific enough to identify and locate records.
- A request must ask for **existing records or documents.** FOIA allows for inspection or copying of records; it does not apply to a situations asking general questions about the work of a Department or the City, nor does it require a Department to create a record that does not exist.
- Records can be provided in the **format in which they were created.**
  - 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.

You may be contacted if there are questions about a request, to ensure that the appropriate records are being provided.

## **Exemptions**

The Code of Virginia allows any public body to withhold or exempt (redact) certain records from public disclosure. The City of Petersburg commonly withholds or exempts records such as:

Common Exemptions:

- Portions of records that contain account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body (§2.2-370501(13))

- Personnel records (§ 2.2-3705.1 (1))
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
- Plans and information to prevent or respond to terrorist activity (§2.2-3705.2(4))
- Confidential Tax Information (§58.1-3)
- Criminal investigative files (§2.2-3706(A)(2)(a))

#### Policy regarding the use of Exemptions

- It is the City of Petersburg’s general policy to exempt any and all records that are allowed to be exempted, redacted, or excluded from production by law
- Any record exempt under the Virginia Code, which the custodian of the record has the option of disclosing, shall not be disclosed

### **About Freedom of Information Act**

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. The purpose of FOIA is to promote an increased awareness and transparency of government activities and afford residents an opportunity to witness the operations of government.

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.

For more information:

The Freedom of Information Advisory Council is available to answer any general questions you may have about FOIA. The Council may be contacted by email at [foiacouncil@leg.state.va.us](mailto:foiacouncil@leg.state.va.us), or by phone at (804) 225-3056 or (toll free) 1-866-448-4100.