

TAZEWELL COUNTY BOARD OF SUPERVISORS

STATEMENT OF VIRGINIA RESIDENTS' RIGHTS TO INFORMATION UNDER THE VIRGINIA FREEDOM OF INFORMATION ACT SECTION 2.2-3700 *ET SEQ.* OF THE CODE OF VIRGINIA (1950), AS AMENDED

Rights, Policies, and Procedures

I. Introduction – The Virginia Freedom of Information Act

The Virginia Freedom of Information Act (hereafter “FOIA”), contained in Section 2.2-3700 through Section 2.2-3715 of the Code of Virginia (1950), as amended¹, was established to make government entities throughout the Commonwealth of Virginia more transparent and to make government information more accessible to citizens of the Commonwealth of Virginia.

FOIA is the primary state law governing citizen access to public records and entry to meetings of public bodies. FOIA guarantees residents of the Commonwealth of Virginia and representatives of the media broadcasting into the Commonwealth of Virginia access to public records held by public bodies, public officials, and public employees. FOIA also guarantees that public business is transacted in forums which are open to the public at places, dates, and times of which the public is given notice².

II. Rights Available to Virginia Residents and Media under FOIA

- (1) Request to inspect and/or receive copies of public records³.
- (2) Request that any charges for the requested records be estimated in advance⁴.
- (3) File a petition in Tazewell County General District Court or Tazewell County Circuit Court to compel compliance with FOIA in the event of a willful violation of FOIA by the governing entity⁵.
- (4) Attend public meetings where public business is transacted⁶.
- (5) Speak at public hearings where public bodies are considering adopting certain ordinances, resolutions, rules, or regulations as required under Virginia law⁷.

¹ <https://law.lis.virginia.gov/vacode/title2.2/chapter37/>

² Section 2.2-3700 of the Code of Virginia (1950), as amended

³ Section 2.2-3704(A) of the Code of Virginia (1950), as amended.

⁴ Section 2.2-3704(F) of the Code of Virginia (1950), as amended.

⁵ Section 2.2-3713(A) of the Code of Virginia (1950), as amended.

⁶ Section 2.2-3707(A) of the Code of Virginia (1950), as amended.

⁷ Section 15.2-1416(D) of the Code of Virginia (1950), as amended.

III. What Is a Public Record under FOIA?

The definition of a public record is quite broad and inclusive. A public record is defined as “*all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation, however stored, and regarding of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees, or agents in the transaction of public business.*”⁸

All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies⁹. 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 narrowly¹⁰.

IV. How Do I Request Public Records?

FOIA requires that public records be made available to residents and the media for copying and/or inspection¹¹. FOIA refers to records that are in existence and does not require Tazewell County to create records¹². However, Tazewell County may abstract and summarize records, by agreement with the requestor¹³. Public bodies of Tazewell County, Virginia are under no obligation to extend benefits of FOIA to requests to individuals and media bodies residing outside of Virginia¹⁴.

FOIA requests do not need to include the word “FOIA” or the phrase “Freedom of Information Act”, but all requests must include the name and address of the requestor and the request must be reasonably specific¹⁵. Further, the request does not need to specifically state that a citizen is requesting records under FOIA.

⁸ Section 2.2-3701 of the Code of Virginia (1950), as amended.

⁹ See Sections 2.2-3705.1 through 2.2-3706.1 of the Code of Virginia (1950), as amended.

¹⁰ Section 2.2-3700(B) of the Code of Virginia (1950), as amended.

¹¹ Section 2.2-3704(A) of the Code of Virginia (1950), as amended.

¹² Section 2.2-3704(D) of the Code of Virginia (1950), as amended.

¹³ *Id.*

¹⁴ See *McBurney v. Young*, 569 U.S. 221 (2013)

¹⁵ Section 2.2-3704(B) of the Code of Virginia (1950), as amended.

Residents can make a request in several ways:

- (1) Personal Delivery to Tazewell County Administration¹⁶;
- (2) Mail to Tazewell County Administration;
- (3) In-Person Requests to Elected and Appointed Officials;
- (4) Facsimile¹⁷;
- (5) Telephone¹⁸; or
- (6) Email¹⁹.

Please note: A verbal request made to a Tazewell County employee who is off-duty and not on Tazewell County property at the time of the request shall not be considered a FOIA request. Please contact Tazewell County Employees during regular business hours²⁰ on Tazewell County emails and telephones and not on personal, private emails and telephones. Text messages, social media messages, or other electronic messages sent to personal, private electronic devices of Tazewell County elected officials, appointed officials, and employees shall not be considered FOIA requests.

Many personal, private telephone numbers and social media accounts serve as personal, private accounts over which public business is not transacted. Additionally, given the nature of digital messaging and social media, comments and messages scroll quickly, which may lead to your FOIA request being unintentionally overlooked. Delivery in one of the six (6) manners listed above will ensure that a record is made of your request and that your request may be filled as timely as possible.

FOIA does not require that requests be in writing. The requestor also does not have to state any reason for the request. However, Tazewell County personnel may have a better understanding of the documents containing the information the requester needs if the requester discloses generally what information they want. This may also help keep costs of FOIA production at a minimum for citizens²¹.

For convenience, a FOIA request form is available on the Tazewell County website²². While not required, it is helpful to put a FOIA request in writing. A clear statement of the request in writing may avoid misunderstandings. It also gives the requestor documentation as to (a) when the request was made and (b) what was requested, in the event the requestor later asserts that Tazewell County did not comply with the request in a timely fashion. Nevertheless, Tazewell County will respond to FOIA requests if the requester elects to not put it in writing.

¹⁶ Address is 197 Main Street – Tazewell, VA 24651.

¹⁷ Facsimile number is: (276) 988-4246.

¹⁸ The Tazewell County FOIA Officer (C. Eric Young) may be reached at (276) 385-1208. The Tazewell County Attorney (Chase D. Collins, Esq.) may be reached at (276) 385-1322.

¹⁹ The Tazewell County FOIA Officer (C. Eric Young) may be reached at eric.young@tazewellcounty.org. The Tazewell County Attorney (Chase D. Collins, Esq.) may be reached at chase.collins@tazewellcounty.org.

²⁰ 8:00 AM until 4:30 PM.

²¹ Section 2.2-3704(F) of the Code of Virginia (1950), as amended.

²² <https://tazewellcountyva.org/>.

Requests must identify the records being sought with "*reasonable specificity*"²³. This is a common-sense standard. It does not refer to or limit the volume or number of records being requested; instead, it requires that the requestor be specific enough so that Tazewell County staff can identify and locate the records requested.

Requests must ask for existing records or documents²⁴. FOIA does not require Tazewell County to create records that does not exist or collect statistics not required by the Code of Virginia²⁵. FOIA gives residents a right to inspect or copy public records. FOIA does not require Tazewell County elected officials, appointed officials, or employees to provide answers to residents regarding general questions about the work of Tazewell County or any department thereof.

Residents can request to receive documents electronically. For example, if a resident requests records maintained in an Excel or comma-separated-value (CSV) format, *and Tazewell County currently maintains such records in an Excel or CSV format*²⁶, a resident may request to receive those records electronically, via email (file size permitting) or on a digital storage device, such as a compact disc (CD) or universal serial bus (USB) device. Additionally, a requestor may also receive a printed copy of those records. Tazewell County will make efforts to oblige such a request to the extent reasonably practicable. However, FOIA does not require Tazewell County to construct spreadsheets or databases that do not already exist simply to satisfy the requestor's preferences or to convert such electronic information into formats not readily available on the County's computers²⁷.

Residents can direct requests to the department that is the custodian of the records sought or to the Tazewell, County Administrator, who is the Tazewell County FOIA Officer.

V. Tazewell County FOIA Officer

C. Eric Young – Tazewell County Administrator

197 Main Street
Tazewell, VA 24651
Telephone: (276) 385-1208
Facsimile: (276) 988-4246
Email: eric.young@tazewellcounty.org

²³ Section 2.2-3704(B) of the Code of Virginia (1950), as amended.

²⁴ Section 2.2-3704(D) of the Code of Virginia (1950), as amended.

²⁵ Id.

²⁶ Section 2.2-3704(G) of the Code of Virginia (1950), as amended.

²⁷ Id.

VI. Responses to FOIA Requests

A requestor shall receive a response to a FOIA request within five (5) business days after the date of the FOIA request²⁸. The business day immediately following the date upon which Tazewell County receives a FOIA request is considered the first (1st) day of the five (5) business day response period²⁹. Weekends and legal holidays do not count as days for purposes of computation of time³⁰.

FOIA outlines the five (5) permissible responses to a FOIA request. If a FOIA request is being denied, or records are not being provided in part or whole according to the request, Tazewell County must respond in writing and state specifically the reasons that records are not being provided. A requestor should either receive the requested records or one of the following responses within five (5) business days of making your request:

- (1) The requested records are being provided and are enclosed³¹.
- (2) The requested records are being provided in part and withheld in part because such withholding is required or permitted by Virginia law. The specific exemption must be properly cited in the response and include the appropriate section of the Code of Virginia³².
- (3) It is not practically possible to produce the records within five (5) business days, and Tazewell County will need to invoke an extension. An extension notification must be made in writing. This extension must be made within the five (5) business day response timeframe, and will add an additional seven (7) business days to the response time, totaling twelve (12) business days³³.
- (4) The requested records are being entirely withheld because their release is prohibited by law or Tazewell County has exercised its discretion to withhold the records in accordance with FOIA. The specific exemption must be properly cited in the response and include the appropriate section of the Code of Virginia³⁴.
- (5) The requested records could not be found or do not exist³⁵.

²⁸ Section 2.2-3704(B) of the Code of Virginia (1950), as amended.

²⁹ *Id.*

³⁰ Section 1-210 of the Code of Virginia (1950), as amended.

³¹ Section 2.2-3704(B) of the Code of Virginia (1950), as amended.

³² Section 2.2-3704(B)(2) of the Code of Virginia (1950), as amended.

³³ Section 2.2-3704(B)(4) of the Code of Virginia (1950), as amended.

³⁴ Section 2.2-3704(B)(1) of the Code of Virginia (1950), as amended.

³⁵ Section 2.2-3704(B)(3) of the Code of Virginia (1950), as amended.

If a request is made for a very large number of records, and the FOIA Officer feels that the records cannot be provided within twelve (12) working days without disrupting other organizational responsibilities, Tazewell County may request an extension of time and notify the requestor of such delay³⁶. Further, Tazewell County may petition the court for additional time to respond to the request³⁷. However, FOIA requires that Tazewell County make a reasonable effort to reach an agreement with the requestor concerning the production of the records before going to court to ask for more time³⁸.

VII. To Whom Do I Make My FOIA Request?

C. Eric Young – Tazewell County Administrator – is the Tazewell County FOIA Officer. Please direct all FOIA requests to Mr. Young at the following:

Mail: 197 Main Street
Tazewell, VA 24651
Telephone: (276) 385-1208
Facsimile: (276) 988-4246
Email: eric.young@tazewellcounty.org

Requestors should be prepared to provide name, address, and telephone number so that Tazewell County may get the requested records to the requestor as quickly as possible. Please be advised that Tazewell County may require a requestor to present proof of residency prior to processing a FOIA request, during which the time period for fulfilling the request will be tolled³⁹.

VIII. Requestors May Be Charged for FOIA Requests

FOIA allows, but does not require, public bodies to charge for requested records⁴⁰. Charges must be actual costs and may not include extraneous or surplus fees unrelated to the production of the records.

With regard to the cost of providing records, Section 2.2-3704(F) of the Code of Virginia (1950), as amended, provides as follows:

³⁶ Section 2.2-3704(C) of the Code of Virginia (1950), as amended.

³⁷ Id.

³⁸ Id.

³⁹ Section 2.2-3704(A) of the Code of Virginia (1950), as amended.

⁴⁰ Sections 2.2-3704(F)-(I) of the Code of Virginia (1950), as amended.

F. *Except with regard to scholastic records requested pursuant to subdivision A 1 of § 2.2-3705.4 that must be made available for inspection pursuant to the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and such requests for scholastic records by a parent or legal guardian of a minor student or by a student who is 18 years of age or older, a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. 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, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. Prior to conducting a search for records, the public body shall 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 he would like to request a cost estimate in advance of the supplying of the requested records. The public body shall provide the requester with a cost estimate if requested. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. Any costs incurred by the public body in estimating the cost of supplying the requested records shall be applied toward the overall charges to be paid by the requester for the supplying of such requested records. Any local public body that charges for the production of records pursuant to this section may provide an electronic method of payment through which all payments for the production of such records to such locality may be made. For purposes of this subsection, "electronic method of payment" means any kind of noncash payment that does not involve a paper check and includes credit cards, debit cards, direct deposit, direct debit, electronic checks, and payment through the use of telephonic or similar communications.*

- G. *Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.*

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

- H. *In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to pay 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. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.*
- I. *Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.*

Tazewell County assesses a reasonable charge for the actual costs incurred in accessing, duplicating, supplying, or searching for requested records (excluding time spent redacting information)⁴¹. It is the goal of Tazewell County to keep production costs as low as possible for the citizens. Residents of the Commonwealth of Virginia and members of the media may request an estimate of the cost of supplying the requested records in advance of the staff searching for and duplicating the records⁴².

⁴¹ Section 2.2-3704(F) of the Code of Virginia (1950), as amended.

⁴² *Id.*

Tazewell County will charge the following amounts for the actual costs of production of a FOIA request⁴³:

- (1) **Labor:** Actual hourly or salary rate of the Tazewell County employee fulfilling the FOIA request, rounded to the tenth (0.1) of an hour⁴⁴.
- (2) **Pages:** Twenty-Five Cents (\$0.25) per page⁴⁵.
- (3) **CD/USB:** Actual cost of the CD or USB, per unit, as necessary.
- (4) **Postage:** Actual cost of postage for United States Postal Service mail, certified mail, return receipt requested, as necessary.

In the interests of public transparency and staff efficiency, if the estimated cost is **Ten Dollars (\$10.00)** or under, Tazewell County will waive all expenses associated with a FOIA request.

If the estimated cost is over **Two Hundred Dollars (\$200.00)**, Tazewell County will request a deposit equal to the amount of the estimated cost prior to performing work to produce public records on any FOIA request⁴⁶. This deposit will be credited toward the final cost determination upon completion of the FOIA request. The requestor shall receive a notice of the costs at the time the information requested is produced⁴⁷.

If any remaining balance of any FOIA request is not paid within thirty (30) days after completion of the FOIA request and final payment is requested, the requestor shall not be provided any further public records until payment in full has been received⁴⁸.

The charge for most responses is less than Twenty Dollars (\$20.00). If the estimated cost is greater than Fifty Dollars (\$50.00), Tazewell County staff will provide an estimate of such costs in advance.

⁴³ Id.

⁴⁴ For salaried employees of Tazewell County, Virginia, this rate will be gross annual salary divided by two thousand (2,000) hours worked in a calendar year. For hourly employees of Tazewell County, Virginia, this rate will be the employees tiered hourly rate.

⁴⁵ This is not applicable in situations where public records are able to be produced electronically.

⁴⁶ Section 2.2-3704(H) of the Code of Virginia (1950), as amended.

⁴⁷ Id.

⁴⁸ Section 2.2-3704(I) of the Code of Virginia (1950), as amended.

IX. What Are Public Meetings Under FOIA?

All meetings of all public bodies, as defined in FOIA⁴⁹, as well as any meetings of a public body's committees or subcommittees are required to be open meetings, subject to certain exceptions spelled out in FOIA⁵⁰. An "open meeting" is a meeting open for members of the public to attend. The right to attend a public meeting does not necessarily mean the public will have the right to speak at the meeting. Most public meetings in Tazewell County include a time set aside for public comment, during which the public may speak about their concerns. However, some meetings are special meetings called to address specific issues or business⁵¹. Those meetings may or may not include a time for public comment. Nonetheless, the public is allowed to attend and observe all "meetings".

Under FOIA, a "meeting" is a gathering of at least three (3) members of a public body for the purposes of discussing or transacting public business, or a gathering of a quorum of the public body if the quorum is less than three (3) members of the members are present for the purpose of discussing or transacting public business⁵². Members of the public body attending public events held for purposes other than the discussion of public business by them such as sporting events, parades, funerals, and other common social gatherings does not constitute a meeting, unless the members actually do discuss public business at such event.

A gathering of public employees is **not** a "meeting" under FOIA. A meeting including one (1) or two (2) members of a public body and public employees also is **not** a public meeting, unless two (2) members are present and two (2) members constitutes a quorum of the public body.

X. How Can Public Bodies Meet Behind Closed Doors and Exclude Public?

During the course of a public meeting, a public body may go into a closed meeting, colloquially known as "executive session", to discuss certain specific types of matters set forth in FOIA⁵³. Only members of the public body and those whom are invited are permitted to attend executive sessions. Matters that may be discussed in executive session include contract negotiations⁵⁴, personnel issues⁵⁵, consultation with legal counsel⁵⁶, and other circumstances listed in the Act, where if held publicly the discussions could compromise the public's interests or violate the privacy rights of individuals.

⁴⁹ Section 2.2-3701 of the Code of Virginia (1950), as amended.

⁵⁰ Section 2.2-3707(A) of the Code of Virginia (1950), as amended.

⁵¹ Section 2.2-3707(E) of the Code of Virginia (1950), as amended.

⁵² Section 2.2-3701 of the Code of Virginia (1950), as amended.

⁵³ Section 2.2-3711 of the Code of Virginia (1950), as amended.

⁵⁴ Section 2.2-3711(A)(29) of the Code of Virginia (1950), as amended.

⁵⁵ Section 2.2-3711(A)(1) of the Code of Virginia (1950), as amended.

⁵⁶ Section 2.2-3711(A)(7) of the Code of Virginia (1950), as amended.

To meet in a closed session, the public body must follow the specific procedures set forth in FOIA⁵⁷. The public body must notify the public of the issues to be discussed and may only discuss those issues⁵⁸. The public body may not vote in closed or executive session and may only vote after returning to public session⁵⁹. Upon return to public session, the public body must vote to certify that such closed meeting included only discussions of the issues identified before entering the closed session⁶⁰.

FOIA permits members of the public to photograph or record (audio, visual, or audio-visual) public meetings⁶¹. It also permits public bodies to adopt reasonable rules concerning the use of cameras and recorders, designed to prevent disruption.

XI. Are There Records of Public Meetings?

Public bodies maintain records of public meetings, including minutes⁶². The minutes and any other recordings of public meetings made by the public body are a public record and available to the Public under FOIA⁶³.

It is Tazewell County's policy to make audio recordings of Board of Supervisors meetings and the meetings of some authorities. Tazewell County aims to make video recordings of Board of Supervisors meetings available by December 2024. Audio or video recordings are not generally made of Committee or Subcommittee meetings. Minutes are kept of Committee and Subcommittee meetings only where action is taken by motions and voting.

XII. When Do Boards and Committees Meet?

The regular meeting dates and times of the Board of Supervisors, and its appointed Authorities and Committees, are available at the Tazewell County website⁶⁴ or by contacting the Tazewell County Administrator's Office at (276) 385-1208. Some Committees, such as the Board of Supervisors Personnel Committee or Budget Committee, do meet regularly and only meet when necessary. Specially called meetings will be advertised in a newspaper having general circulation in Tazewell County⁶⁵. The primary newspaper for special meeting advertisements is the Bluefield Daily Telegraph, as it is a semi-daily newspaper and runs most frequently in Tazewell County, Virginia, allowing meetings to be held more quickly while maintaining compliance with FOIA. However, under special circumstances, meetings may be advertised in the Clinch Valley News. You may ask to be included in the list of media personnel who receive individual notification of special meeting dates and times.

⁵⁷ Section 2.2-3712 of the Code of Virginia (1950), as amended.

⁵⁸ Id.

⁵⁹ Section 2.2-3710 of the Code of Virginia (1950), as amended.

⁶⁰ Section 2.2-3712 of the Code of Virginia (1950), as amended.

⁶¹ Section 2.2-3711(H) of the Code of Virginia (1950), as amended.

⁶² Section 2.2-3707(I) of the Code of Virginia (1950), as amended.

⁶³ Id.

⁶⁴ <https://tazewellcountyva.org/>.

⁶⁵ Section 2.2-3707(E) of the Code of Virginia (1950), as amended.

XIII. Are There Accommodations for Americans with Disabilities?

Meetings of the Tazewell County Board of Supervisors are held in the County Administration Building, located at 197 Main Street, Tazewell, VA 24651, which is compliant with the Americans with Disabilities Act of 1990 (ADA). The handicapped parking space for the Tazewell County Administration Building is on the south side of the building adjacent to the Tazewell County Courthouse parking lot. The building entrance located immediately in front of the handicapped parking space is the ADA-compliant entrance. In the basement lobby, the elevator is on the right just past the restrooms. Board meetings and most committee meetings are generally held on the first (1st) floor (Main Street Level); exiting the elevator, this would be on the right through the double doors. Most records are kept in the Tazewell County Administration Building on the second (2nd) floor, accessed from the same elevator.

In compliance with ADA, if special assistance is needed to attend a meeting of the Tazewell County Board of Supervisors, please contact the Tazewell County Administrator's office at (276) 385-1208 or by e-mail at susan.jewell@tazewellcounty.org.

If you are physically disabled and need assistance to attend a meeting of the Board of Supervisors, a notification of five (5) working days prior to the meeting will enable the Tazewell County Administrator's office to make reasonable arrangements to ensure accessibility to the meeting.

XIV. If I have FOIA-Related Questions, Whom Do I Call?

The Tazewell County Attorney's Office provides FOIA counsel for the Board of Supervisors and its appointed Authorities and Agencies. If you have a question or concern about how your FOIA request was handled by Tazewell County, you may contact:

Chase D. Collins, Esq.
Tazewell County Attorney
Tazewell County Attorney's Office
197 Main Street
Tazewell, VA 24651

Telephone: (276) 385-1322
Email: chase.collins@tazewellcounty.org

Additionally, the Virginia FOIA Council is a state agency with the expertise to help resolve disputes of FOIA issues⁶⁶. The FOIA Council answers questions from private citizens and the media, in addition to state and local public officials, about access to public records and meetings. By issuing advisory opinions, whether oral or written, the FOIA Council offers assistance to resolve disputes by clarifying what the law requires and to guide future practices. The FOIA Council has no authority to mediate disagreements, but may be called upon as a resource to offer solutions to resolve FOIA disputes. As part of its statutory duties set forth in the Code of Virginia⁶⁷, the FOIA Council is charged with providing opinions about the application and interpretation of FOIA, conducting FOIA training seminars, and publishing educational materials.

⁶⁶ Section 2.2-3704.1 of the Code of Virginia (1950), as amended.

⁶⁷ Section 30-178 *et seq.* of the Code of Virginia (1950), as amended.

TAZEWELL COUNTY BOARD OF SUPERVISORS
VIRGINIA FREEDOM OF INFORMATION ACT PROCEDURES

The Tazewell County Board of Supervisors (the Board) hereby adopts the following procedures for processing and handling Virginia Freedom of Information Act (FOIA) claims:

- (1) **FOIA Officer.** The Board designates the Tazewell County Administrator, or his/her designee, as the Tazewell County, Virginia (the County's) FOIA Officer. The FOIA Officer also serves as the Public Information Officer, whose responsibilities include, but are not limited to, coordinating and ensuring proper response to requests for public records issued to the County and its employees. All "non-routine" FOIA requests shall be handled by the FOIA Officer. Upon receipt of a FOIA request, the FOIA Officer provides a proper response in accordance with the requirements of FOIA and this policy.

The FOIA Officer is required to attend training from the Virginia Freedom of Information Advisory Council (the FOIA Council)

- (2) **Staff Responsibilities.** All County employees have a responsibility to comply with FOIA. The general role and responsibilities of the employee are outlined in this section as specified in the County's Ordinances:

Staff/Custodian of Records – Certain employees will be notified that they are records custodians who may respond to certain "routine" requests without consultation with the FOIA Officer. For "routine" requests for information, custodians who receive a request for information shall ensure that it is promptly and properly produced to the requestor. All "non-routine" FOIA requests shall promptly be routed to the FOIA Officer. If a records custodian has any doubt as to whether a request is or is not routine, the custodian should forward the request to the FOIA Official.

Staff/Non-Custodian of Records – Employees who are not custodians of records should not produce records for any requesters. Such employees who receive a records request from a member of the public should communicate that request to their Department Head or the FOIA Officer as soon as possible.

- (3) **County Attorney.** Upon the request of the FOIA Officer, the County Attorney shall provide legal advice to the FOIA Officer and shall make recommendations as to whether documents should, as a matter of law, be released pursuant to FOIA.

The FOIA Officer may release records which FOIA permits to be withheld under a discretionary exemption with consultation from Board.

If the FOIA Officer and the County Attorney do not agree regarding the exercise of the discretionary exemption, the FOIA Officer may proceed only after consultation with the Board.

If the FOIA Officer and County Attorney do not agree regarding whether a requested record must be released, the County Attorney may proceed to release the record in question only after consultation with both the Board and FOIA Officer. Prior to such consultation, the County Attorney will obtain an opinion from the FOIA Council.

The County Attorney will update the FOIA Officer, County employees, and the Board from time to time regarding any changes in FOIA law

- (4) **Records to be Presented to FOIA Officer.** With the exception of records excluded as Work Product or Attorney-Client Privilege, which are held by the Board and the County Attorney, under no circumstances shall any documents be withheld from the FOIA Officer, the County Attorney, or the County Administrator.

Willful withholding of public records from the FOIA Officer or the County Attorney or County Administrator by a County employee may be grounds for disciplinary action up to and including termination.

- (5) **Role of County Employees in FOIA.** Each Tazewell County employee has a role in adhering to FOIA and the operations of Tazewell County. If an employee is asked for public records at any place or at any time during work hours, and the employee is not able to provide the records, it is the responsibility of the employee to notify his/her Department Head or the FOIA Officer of the request.
- (6) **Department Heads.** Departmental Heads are responsible for determining whether a FOIA request is routine or non-routine. If there is any doubt as to whether a FOIA request is routine or non-routine, the Department Head should forward the request to the FOIA Officer for immediate action. It is imperative that the Department Head and the FOIA Officer respond to the requests efficiently and timely.

The Department Head shall produce the requested records to the FOIA Officer as soon as possible. If the Department Head believes production of the records, whether routine or non-routine, will significantly disrupt the Department's operations, the Department Head shall notify the FOIA Officer immediately.

If the Department Head believes that information from records should be redacted, the Departmental Head must discuss this with the FOIA Officer, who will determine appropriate redactions.

- (7) **Procedures for Non-Routine Requests.** Based on the subject of the record requested, the FOIA Officer shall determine whether there is any policy or operational reason for withholding the requested records. The FOIA Officer shall not discriminate against any specific requestor in determining whether there is a policy or operational reason for not disclosing the request. However, requestors who have an outstanding balance due from previous requests shall be denied their FOIA request until such outstanding balance is paid.

Should the FOIA Officer believe that there is a policy reason for not disclosing the record, he/she shall consult with the County Attorney to determine whether any of the exemptions to disclosure are applicable.

If the County Attorney and FOIA Officer agree that an exemption is applicable, the FOIA Officer shall, in consultation with the Chairman of the Board, exercise the exemption. The County Attorney shall write the requestor advising that the exemption is being exercised.

If the FOIA Officer determines that there is no policy or operational reason to withhold the information, he/she shall release the information in accordance with the requirements of FOIA. If the FOIA Officer needs additional time to respond for any of the reasons stated in FOIA, he/she may send a letter requesting more time pursuant to FOIA. However, the FOIA Officer shall not unnecessarily delay release of the records requested.

- (8) **Requests to Review Records.** In the event that the requestor makes a FOIA request to review records, the department file or documents will be submitted to the FOIA Officer. The FOIA Officer will review the records and notify the requestor that the records are available for inspection and copying.
- (9) **Routine Requests Defined.** Department Heads and the FOIA Officer shall collaborate in determining which documents are routinely produced for the public by their Department. Those Documents will be listed and the list will be provided to the Staff Custodian of Records within that Department. If a Department does not have a designated Custodian of Records, then the FOIA Officer shall be deemed the custodian of records for that Department.
- (10) **Training and Compliance Monitoring.** The FOIA Officer shall advise County employees who are Staff/Records Custodians of their responsibilities pursuant to this Policy. Department Heads, the FOIA Officer, and the County Attorney shall attend periodic training regarding the County's FOIA responsibilities.

(11) **Additional Policies and Amendments.** The County Administrator may amend and add to this FOIA policy from time to time to maintain compliance with FOIA or improve efficiency. However, provisions requiring the consent of the County Attorney and Board to withhold records from disclosure may not be amended without Board approval. Likewise, provisions requiring Board approval to produce records that the FOIA Officer or the County Attorney believe should be withheld pursuant to an exemption shall not be amended without Board approval.

APPROVED this 7th day of May, 2024.

ATTEST:



K. Andy Hrovatic
Chairman – Board of Supervisors



C. Eric Young
Tazewell County Administrator

RECORDED VOTE:

MEMBERS PRESENT: Cree, Gillespie, Hrovatic, Plaster, Presley
MEMBERS ABSENT: NONE
AYES: Cree, Gillespie, Hrovatic, Plaster, Presley
NAYS: NONE
ABSTENTIONS: NONE