

THE RIGHTS OF REQUESTORS AND THE RESPONSIBILITIES OF THE TOWN OF BLUEFIELD UNDER THE VIRGINIA FREEDOM OF INFORMATION ACT

THE VIRGINIA FREEDOM OF INFORMATION ACT

The Virginia Freedom of Information Act (FOIA), located in sections 2.2-3700 et seq. of the Code of Virginia (1950) as amended, guarantees citizens of the Commonwealth of Virginia 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 (e.g. paper record, electronic file, audio recording, video recording, etc.) prepared by, owned by, or in the possession of a public body, 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 the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires the law to be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

REQUESTORS FOIA RIGHTS

You have the right to request to inspect and/or receive copies of public records.

You have the right to request any charges for requested records be estimated in advance.

If you believe that your FOIA rights have been violated, then you may file a petition in the Tazewell County (Virginia) General District Court or the Tazewell County (Virginia) Circuit Court to compel compliance with FOIA. Alternatively, you may contact the Freedom of Information Advisory Council for a nonbinding advisory opinion.

REQUESTING RECORDS FROM THE TOWN OF BLUEFIELD

You may request records from the Town of Bluefield by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require your request to be in writing. Additionally, FOIA does not require your request for records to reference FOIA. Furthermore, the Town of Bluefield cannot refuse to respond to a verbal FOIA request. However, from a practical perspective, it may be helpful to put your request in writing. This will create a record of your request, and provide a clear statement of what you are requesting so there is no misunderstanding.

A copy of the standard FOIA request form used by the Town of Bluefield may be found on the Town of Bluefield website and at the Town Clerk's Office, located in the Town Hall of the Town of Bluefield, at 112 Huffard Drive in Bluefield, Virginia 24605.

Please note a request for records must identify the records sought with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records you are requesting, but rather requires you to be specific enough in your request so the Town of Bluefield may identify and locate the records you are seeking.

Please note a request for records must be for existing records. FOIA gives you a right to inspect or copy records, but it does not apply to a situation where you are asking general questions about the work of the Town of Bluefield nor does it require the Town of Bluefield to create a record that does not exist.

You may choose to receive electronic records in any format used by the Town of Bluefield in the regular course of its business. For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail, on a computer disk, or as a printed copy.

If the Town of Bluefield has questions regarding your request for records, then please cooperate with any efforts to clarify the type of records you are seeking, or any attempts to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but the staff of the Town of Bluefield may need to discuss your request with you to ensure it is understood what records you are seeking.

To request any records from the Town of Bluefield, please direct your request to the Town Clerk, Town of Bluefield, 112 Huffard Drive, P.O. Box 1026, Bluefield, Virginia 24605. The Town Clerk may also be reached by phone at (276) 322 4626, fax at (276) 326 1204, or email as illustrated on the Town of Bluefield website.

The Freedom of Information Advisory Council is also available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at foiacouncil@dls.virginia.gov, or called at (804) 225-3056 or [toll free] (866)-448-4100.

THE TOWN OF BLUEFIELD'S RESPONSIBILITIES IN RESPONDING TO A FOIA REQUEST

The Town of Bluefield must respond to your request for records within 5 working days of receiving your request. "Day 1" is considered the day after your request is received. The 5 day period does not include weekends or holidays.

The reason behind your request for records is irrelevant, and you do not have to state why you want the requested records before the Town of Bluefield responds. FOIA does, however, permit the Town of Bluefield, to require you to provide your name and legal address.

FOIA requires the Town of Bluefield to make one of the following responses to your request within the 5 day time period:

- Providing the records requested in their entirety.
- Withholding all of the records requested because they are subject to a statutory exemption. If all of the records are withheld, then a response must be sent to you in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific code section of the Code of Virginia that allows the withholding of the records.
- Providing some of the records requested but withholding some or part of the records requested. The Town of Bluefield cannot withhold an entire record if only a portion of it is subject to a specific statutory exemption. In that instance, the Town of Bluefield may redact the portion of the record that may be withheld, and provide you with the remainder. The Town of Bluefield must provide you with a written response stating the specific code section of the Code of Virginia that allows portions of the requested records to be withheld or redacted.
- Stating the requested records cannot be found or do not exist. However, if it is known to the Town of Bluefield that another public body has the requested records, then the Town of Bluefield must include the contact information of the other public body in its response to you.

If it is practically impossible for the Town of Bluefield to respond to your request for records within the 5 day period, then it must be stated so in writing with an explanation of the conditions that make the response impossible. This will allow 7 additional working days to respond to your request; giving a total of 12 working days to respond to your request.

If you make a request for a very large number of records, and the Town of Bluefield feels it cannot provide the records to you within 12 working days without disrupting its other organizational responsibilities, then the Town of Bluefield may choose to petition the appropriate court for additional time to respond to your request. However, FOIA requires a reasonable effort be made to reach an agreement with you concerning the production of the records before going to court to ask for more time.

COSTS ASSOCIATED WITH A FOIA REQUEST

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.

Please note you may be required to pay for the records you request from the Town of Bluefield. FOIA allows the Town of Bluefield to charge for the actual costs of responding to FOIA requests. This includes costs like staff time spent searching for the requested records, copying costs, and any other costs directly related to supplying the requested records. General overhead costs are excluded.

If it is estimated that providing the records requested will cost more than \$200, then the Town of Bluefield may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The 5 days to respond to your request does not include the time between when the Town of Bluefield asks for a deposit and when you respond.

You may request the Town of Bluefield estimate the charges for supplying the records you have requested in advance. This will allow you to know the costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.

Please note if you owe the Town of Bluefield money from a previous FOIA request that has remained unpaid for more than 30 days, then the Town of Bluefield may require payment of the past due bill before it will respond to your new request.

TYPES OF RECORDS HELD BY THE TOWN OF BLUEFIELD

While not an exhaustive list, here is a list of some of the types of records held by the Town of Bluefield:

- Minutes of the meetings and public hearings held before the public bodies (e.g. Town Council, Planning Commission, etc.) of the Town of Bluefield.
- Resolutions and ordinances adopted for the Town of Bluefield.
- Records of contracts entered into by the Town of Bluefield.

- Records of permits issued by Town of Bluefield.
- Records of the operations/expenses/finances of the Town of Bluefield.

If you are unsure whether the Town of Bluefield has the record(s) you are seeking, then please feel free to contact the Town Clerk of the Town of Bluefield with any questions or concerns at Town of Bluefield, 112 Huffard Drive, P.O. Box 1026, Bluefield, Virginia 24605. The Town Clerk may also be reached by phone at (276) 322 4626, fax at (276) 326 1204, or email as illustrated on the Town of Bluefield website.

COMMONLY USED EXEMPTIONS

The Code of Virginia allows any public body to withhold certain records from public disclosure. For a full list of the FOIA exemptions, then please see sections 2.2-3705.1 et seq. of the Code of Virginia (1950) as amended. While not an exhaustive list, the Town of Bluefield commonly withholds records under the following exemptions:

- Personnel records (§ 2.2-3705.1 (1))
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) and attorney work product doctrine (§ 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))