

**The Rights of Requesters and the Responsibilities of King George County  
under the Virginia Freedom of Information Act**

The Virginia Freedom of Information Act (FOIA), found in Virginia Code § 2.2-3700 et seq., guarantees citizens of the Commonwealth and representatives of the media, broadcasting into or with circulation in Virginia, 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 agent, in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exclusion or exemption applies.

The purpose of FOIA is to ensure access to public records in the custody of public bodies and their officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted, thereby promoting an increased awareness of governmental activities. In furthering this policy, the provisions of the FOIA are to be interpreted liberally and that any exclusion or exemptions allowing public records to be withheld must be interpreted narrowly.

**Requester's FOIA Rights**

If you are a citizen of Virginia or a member of the media broadcasting or having circulation within Virginia:

- You may request to inspect and/or receive copies of public records.
- You may request that any charges for requested records be estimated in advance.
- If a public body is not complying with FOIA, you may file a petition in general district or circuit court to compel compliance with FOIA. Alternatively, you may contact the Commonwealth of Virginia's FOIA Council for a nonbinding advisory opinion.

**Making a Request for Records from King George County**

Public records may be requested in person or by e-mail, telephone, mail, or fax. FOIA does not require that requests be in writing, nor does one need to state that they are requesting records under FOIA. Nevertheless, the County would prefer requests to be submitted, in writing, through the County website's FOIA portal or by email to the FOIA in order to facilitate compliance.

- From a practical perspective, it is helpful for requesters and County staff to put requests in writing. This allows requesters to create a record of their request. It also provides the County a clear description of the requested records. However, the County cannot refuse to respond to a FOIA request because it is not in writing.

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

- FOIA only applies to actual and existing public records or documents. FOIA does not apply to general questions about the County, its work, and its public officers, officials, and employees; nor does FOIA require the County to create a record that does not exist.

Requesters may elect to receive electronic records in any format used by the County in the regular course of business.

- For example, a requester may elect to receive records maintained in an Excel database, electronically, via e-mail or on a storage device, or to receive a printed copy of those records.

If the County has questions about a request, requesters are asked to cooperate with staff's efforts to clarify the type of records being sought, or to attempt to reach a reasonable agreement about a response to a large request. County staff may need to discuss your request with you to ensure that we understand what records are being requested and how best to comply with FOIA.

### **King George County's Responsibilities in Responding to Requests for Public Records**

The County must respond to a request for public records within five (5) working days of receiving it. "Day One" is considered the next working day after a request is received. The five-day period does not include weekends, holidays, or emergency closures.

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The reason behind a request from public records from the County is irrelevant, and requesters do not have to state or explain why they want the records. FOIA does, however, allow the County to ask you to provide your name and legal address.

FOIA requires that the County respond within the five-day period in one of the following ways:

1. Provide the requested records in their entirety with reasonable efforts to produce the records at the lowest possible cost.
2. Withhold all of the requested records because the records are subject to a specific statutory exclusion or exemption. If all of the records are withheld, the County will send you a response in writing, identifying the volume and subject matter of the records being withheld, and state the specific provision of FOIA or other legal authority that allows the County to withhold the records.

3. Provide some of the requested records but withhold other records. The County may not withhold an entire record if only a portion of it is subject to an exemption. In that instance, the County may redact the portion of the record that may be withheld, and will provide the remainder of the record. The County will provide a written response stating the specific statute that allows portions of the requested records to be withheld.
4. Inform the requester in writing that the requested records do not exist or cannot be found (the County does not have the records). However, if the County knows that another public body has the requested records, the County will include contact information for the other public body in the County's response.
5. If it is not practically possible for the County to respond to a request within the five-day period, the County will state this in writing, explaining the conditions that make the response impossible. This will allow the County seven (7) additional working days, for a total of twelve (12) days to respond to a request.

If a request is for or generates a very large number of records, and the County concludes that it cannot provide the records within twelve (12) working days without disrupting its other administrative or organizational responsibilities, the County may petition the circuit court for additional time to respond to your request. Prior to petitioning the court, FOIA requires that the County make a reasonable effort to reach an agreement with the requester to modify the request by scope or response time.

### **Responding to a Request for Public Records**

King George County shall comply with the following procedures for processing a FOIA request.

1. Unless a FOIA request can be immediately processed as a matter of customer service by providing a website link or inspection or copying of a record that is readily available without legal consultation as to possible exemptions, FOIA requests should be directed to the FOIA Officer in the County Administrator's Office, as the centralized receiving center for FOIA requests.

By mail:  
County Administrator's Office  
ATTN: Jaclyn Fish, FOIA Officer  
10459 Courthouse Drive, Suite 200  
King George, VA 22485

Fax: (540) 775-9181  
Phone: (540) 775-9181  
E-mail: [jfish@co.kinggeorge.state.va.us](mailto:jfish@co.kinggeorge.state.va.us)

Web portal: Online FOIA Request link currently available at  
[www.kinggeorgecountyva.gov/784/Public-Records-FOIA-Requests](http://www.kinggeorgecountyva.gov/784/Public-Records-FOIA-Requests)

2. After receipt of the request, the FOIA Officer will notify the requester that they may request a cost estimate and direct the request to the appropriate County Department(s), the Board of Supervisors, or other public officials (as appropriate). If it is anticipated that the response costs will exceed \$200 or the requester asks for a cost estimate, individuals likely to have responsive records will provide the estimated time to process the response to the FOIA Officer before proceeding with actual search (unless a Department head authorizes a search with the understanding that the request might be rescinded or refined after the cost estimate disclosure). In the event that a cost estimate exceeds \$200, the response time is paused pending the making of a deposit, and if a requester asks for a cost estimate but the estimate is less than \$200, the response time will be paused pending notification by the requester to proceed with the request. If no deposit is made or affirmative response to proceed from the applicant (as applicable) in the case of a cost estimate, the request shall be deemed automatically withdrawn after thirty (30) days.
3. Department heads will implement and follow a process for providing FOIA requests to staff in their department for response and fulfillment and shall keep the FOIA Officer apprised of the status of the response. Staff will provide all responsive records to the FOIA Officer with adequate time in the response period to compile records or (if applicable) to redact exempt content.
4. Unless a Department with responsive records has a trained point of contact for FOIA responses, the FOIA Officer in consultation with the County Attorney (as needed) shall review all submitted, responsive records, ensuring all information required and allowed to be exempted, redacted, or withheld under the FOIA statutes has been excluded or redacted. The assigned FOIA contact person will also appropriately document any information redacted or withheld in accordance with the FOIA statutes.
5. Unless a records request can be immediately processed as a matter of customer service by providing a website link or inspection or copying of a record that is readily available without legal consultation as to possible exemptions, FOIA requests initially received by a County Department, official, or employee, other than the County Administrator's Office, shall immediately be forwarded to the FOIA Officer to the follow the same process detailed above to ensure proper compliance and administration.
6. If at any time during the process a County employee or official has any legal questions about records, responsiveness, exemptions, or information that shall/may be withheld or redacted, they may consult with the County Attorney's Office.

### **Delays in responding to a FOIA request**

If an individual involved in processing a FOIA response needs clarification regarding the subject matter or scope of a FOIA request and the ambiguity can be cleared up by communicating with the requester, they shall confer with the FOIA Officer, who in most circumstances is the designated point of contact with the requester.

If the Department head (or designee) determines that they or their staff will not be able to respond to a FOIA request within the statutory five (5) working days, they shall communicate immediately with the FOIA Officer the need for more time and approximately how long the Department needs to respond to the request. The FOIA Officer shall communicate the need to the requester for an extension in writing invoking the statutory additional seven (7) working days. This communication may be made by or confirmed (after the fact) in writing to the requester.

If greater than seven (7) days is necessary, the FOIA Officer shall try to reach a reasonable agreement with the requester for more time. If a reasonable agreement cannot be reached, the County Administrator's Office shall contact the County Attorney's Office to petition the circuit court for additional time.

Please see the section below about costs and deposits with regard to further possible delays in responding.

### **Notice of Potential Costs for Records and Option to Request Cost Estimate**

Pursuant to Virginia Code § 2.2-3704.1, a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for 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. 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 as set forth in subsection F of § 2.2-3704 of the Code of Virginia.

**Cost Considerations and Implementation Policy:**

A requester may have to pay for the records requested from King George County. The Virginia Freedom of Information Act (FOIA) allows the County to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, duplicating or scanning costs, or any other costs directly related to supplying the requested records. A requester may elect to physically inspect records, which based on the circumstances may or may not reduce or eliminate the need for employees or officials to search for records based on responsiveness or for possible exemptions.

If the County estimates that it will cost more than \$200 to respond to your request, the County will require a deposit, not to exceed the amount of the estimate, before proceeding with a request. The five (5) or more working days that the County has to respond to a request does not include the time between when the County asks for a deposit and when a response is received.

All deposits shall be paid by check or money order, made payable to King George County, and delivered to the County Administrator's Office. Checks and money orders will be held and only deposited once the request is complete. Any outstanding balance will be billed on or after the date the County's response is complete. In the event that the cost estimate exceeded actual costs, any balance remaining from the deposit shall be returned to the requester.

A requester may ask that the County estimate in advance the charges for supplying the requested records. This allows estimated costs to be known upfront and provides an opportunity to modify a request in an attempt to lower the estimated costs. The statutory time limits provided apply to producing a cost estimate but the search will not begin or run until the requester gives the County permission to proceed after receipt of estimated costs.

If a requester owes the County money from a previous FOIA request that has remained unpaid for more than thirty (30) days, King George County may require payment of the past-due bill before it will respond to a new FOIA request.

Responses to FOIA requests that require thirty (30) minutes or less of an individual Board member's, public officer/official, or staff member's time, will not result in a charge to the requester.

Individuals engaged in producing a FOIA request shall keep track of their active time in preparing the response and provide the County's FOIA Officer with notice of the hours expended rounded to the closest quarter of an hour spent preparing any request if of a duration of greater than thirty minutes. The FOIA Officer shall tabulate and bill the costs of a response that exceed \$10, except that a majority of the Board of Supervisors may direct staff to waive costs in such instances as when response materials are widely distributed by posting of materials responsive to a citizen's request on the County's website or as backup up materials in an agenda packet.

The fee attributable to time spent to prepare a response shall be based on the hourly salary rate (exclusive of benefits and other overhead costs) of individuals compensated by the County for their services. If total time expended exceeds 30 minutes, the cost shall be totaled by the applicable hourly rate of each individual performing work multiplied by the number of hours (rounded to the nearest quarter of an hour).

The County will take reasonable precautions to keep staff time and costs to a minimum including using subordinate staff members capable of retrieving records to respond to a request when appropriate. The Supreme Court of Virginia issued an opinion that a public body may charge for the review of public records to assure that otherwise responsive records are not exempt from disclosure; to mitigate costs, however, if review or redaction for exemptions is required, attorney time shall be complimentary if minimal time is involved or billed at the hourly rate of salary for administrative or support staff. It may also be unavoidable that senior staff may be needed to process a request such as situations where an individual is required to search through their own correspondence, notes, and files.

Fees charged for supplies, duplications, etc. shall be as follows:

Copies: \$0.02 per page

Compact Disc: \$0.30 per C.D. (or at cost for thumb drives or similar external storage devices)

Mail: Actual cost to mail the request

Documents from GIS: See GIS fee schedule

### **Commonly Used Exclusions and Exemptions**

The Virginia Code allows public bodies to withhold certain records from public disclosure. King George County commonly withholds records subject to applicable exclusions and exemption, including but not limited to some of the following commonly encountered authorities:

- Records subject to the attorney-client privilege (Virginia Code § 2.2-3705.1(2)) or attorney work product (Virginia Code § 2.2-3705.1(3))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (Virginia Code § 2.2-3705.1(12))
- Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease (Virginia Code § 2.2-3705.1(8))
- Personnel records (Virginia Code § 2.2-3705.1(1))

For a full list of commonly applied exemptions, see Virginia Code § 2.2-3705.1, et seq.

### **Policy regarding the use of Exclusions and Exemptions**

It is King George County's general policy to exclude from responses to requests for public records any and all records that may be lawfully exempted, redacted, or excluded from production.

Any record excluded or exempt under the Virginia Code or other applicable law, which the custodian of record has the option of disclosing, shall not be disclosed.

### **Types of Records Maintained by the County**

The following is a general description of the types of records held by the County:

- Policies and procedures
- Written correspondence, including letters and electronic mail
- Financial and procurement records
- Personnel records concerning employees and officials
- Contracts and agreements
- Permits or plans issued or reviewed by the County
- Official records of meetings of the Board of Supervisors, including minutes, ordinances, resolutions, and memoranda
- Official records of County boards, commissions, committees, and working groups

If you are unsure whether the County is the custodian of the record(s) you seek, please contact the FOIA Officer at the contact information listed above.