



AGENDA ITEM FORM

TYPE OF AGENDA ITEM:

- CONSENT AGENDA
- PRESENTATION
- ACTION ITEM
- TOWN MANAGER & STAFF COMMENTS
- PUBLIC HEARING
 - Duly Advertised

PURPOSE OF ITEM:

- INFORMATION ONLY
- DISCUSSION ONLY
- DISCUSSION AND/OR DECISION
 - Introduction Resolution
 - Ordinance Grant/MOU
 - By Motion Bylaws
 - Certificate

PRESENTER: Christine Sanders

PRESENTER TITLE: Town Attorney

AGENDA ITEM:

Draft FOIA Policy

BACKGROUND / SUMMARY:

The Town staff receives frequent requests for information. These requests fall under requests for public information or records covered by the Virginia Freedom of Information Act (FOIA). The purpose of this policy is to formalize the procedure for responding to these requests, and to document and track requests for timely response under the law. Attached is a draft for Council's review, comment, and discussion.

ATTACHMENTS:

Draft FOIA Policy

REQUESTED ACTION:

Discussion and decision on whether to move this to a regular meeting for adoption

FOR MORE INFORMATION, CONTACT:

Name: Christine Sanders

Phone#: (703) 221-3400 ext 112

E-mail: csanders@dumfriesva.gov

FOR USE DURING MEETING

- | | |
|--------------------------|--------------------------|
| Y | N |
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |

Brewer
Reynolds
Wood

- | | |
|--------------------------|--------------------------|
| Y | N |
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |

VOTE:

Foreman
Toney

PASSED

- | | |
|--------------------------|--------------------------|
| Y | N |
| <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> |

NOT PASSED

Forrester
Washington



Town of Dumfries COUNCIL POLICY

Subject	Freedom of Information Act
Policy Number	CP01-13
Original Effective Date	
Revision Date	

I. **Purpose:** To courteously and promptly provide requested information in compliance with the law and to assure access to public records in the custody of the Town of Dumfries government officials; to provide guidelines on availability of records; and to establish authority for carrying out the provisions of the Freedom of Information Act, Section 2.2-3700, *et. seq.* of the Code of Virginia (1950) as amended, (the "Act"), including a uniform fee schedule for reproduction of requested documents.

II. **Rights and Responsibilities under FOIA:**

A. **Background:**

1. The Virginia Freedom of Information Act (FOIA), located § 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.
2. 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.
3. 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.

B. **FOIA Rights:**

1. FOIA requestors have the right to request to inspect **or** receive copies of public records, or both.
2. FOIA requestors have the right to request that any charges for the requested records be estimated in advance.
3. FOIA requestors, who feel that their FOIA rights have been violated, may file a petition in district or circuit court to compel compliance with FOIA.

III. Procedure for Responding to FOIA requests:

1. The Town of Dumfries (“Town”) policy is to facilitate access to the official records of the Town, to make such records available, and to respond to requests for access to official records timely pursuant to the Act.
2. All requests for information or for Town records shall be referred to the FOIA Officer for response, regardless of who received the request for records.
3. The Town Manager shall designate the Town Attorney as the FOIA Officer. In the absence of the Town Attorney, the Town Manager may designate the Town Clerk or other Town staff members to assist the public with requests for official Town records.
4. When requests are made pursuant to the Act, the FOIA Officer will maintain a written record of requests and responses. Although a written request is not required to trigger a FOIA request, the FOIA Officer may ask the requester to submit a written request in order to understand the scope and specifics of what is requested.
5. The FOIA Officer will notify Town Council of requests for information under the Act.
6. A copy of the request and the response shall be maintained by the FOIA Officer. Official records shall be open to inspection and/or copying during regular office hours, unless the records are excluded from production under the Act. When extensive or complicated requests are made or when legal factors must be considered when responding to a request under the Act, the Town Attorney shall be consulted.
7. Upon receipt of an overly broad or unclear request under the Act, it is encouraged that the requestor be contacted to ascertain exactly the documents being requested.
8. Initial responses to the request for records shall be provided within five (5) business days after receipt of the request and shall be one of the following:
 - a. Make the requested records available in writing;
 - b. Advising the requestor in writing that the records are being withheld as permitted by the Act or other, with references to the applicable Virginia Code section which exempts records from disclosure and identifying within reason the volume and the subject matter of the withheld portions;
 - c. Making part of the requested records available and advising the requestor in writing that the remainder are being withheld including the specific citations of the Code sections that exempt records from disclosure; and/or
 - d. Informing the requestor in writing that it is not practically possible to identify or collect the requested records within five (5) work days, and explaining why. If this response is made within the five (5) work days, the Town has an additional seven (7) days to make one of the preceding three responses.

9. The Town is not obligated to create or compile information or records which are not in existence or in the format requested.

IV. Charges:

1. Where minimal search time is required, there is no charge for viewing only of records. When search time is not minimal or when copies of records are requested, charges may be made based on reimbursement to the Town for the cost or searching for and reproducing documents. If the charges to search for and reproduce are expected to exceed \$200.00, the Town may require payment of the estimated costs in advance by the requestor. Where advance payment is requested, the time allowed for response stops running until the requestor responds.
2. Where extensive search time is required and extensive copying is anticipated, the requestor has the option of viewing the records.
3. Requests to provide information and records in computerized formats (diskettes, tapes, email) will be reviewed on a case by case basis and charges will be calculated based on material and staff time costs.
4. Charges may be paid in cash or by check made payable to the Town of Dumfries and reference the specific request.
5. Charges for costs incurred in searching and copying Town records are calculated based on cost of labor, including staff time, cost and wear and tear on office equipment and materials as follows.

Office Copy Reproduction: Five pages, or fewer, no charge; thereafter \$0.25 per 8 1/2" X 11" or 8 1/2' X 14 "page, \$0.50 per 11" by 17" page and \$1.00 per color copy.

Data CDs: \$10.00 per CD

DVD of a recorded meeting: \$10.00 per DVD (available for Town Council regular meetings, Planning Commission regular meetings, and Board of Zoning Appeals cases, availability may expire typically expires 30 days after the meeting or upon approval of the meeting minutes, whichever occurs last)

Other video, CD or DVD: Cost of staff time to prepare, if available.

Annual Budget, adopted CIP, adopted Comprehensive Plan: available online at www.dumfriesva.gov – Hard copies at \$0.25 per page

Town Code, Zoning Ordinance: available online at www.dumfriesva.gov – Hard copies at \$0.25 per page

Charges for information not covered by the above will be made according to Virginia FOIA law at the discretion of the FOIA Information Officer, and based on actual costs to produce the requested information.