

## Town of Onancock

### Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA) is the state law governing access by citizens of Virginia, and representatives of the media, to public records and to meetings of public bodies, as defined by the act. Virginia FOIA provides that, with some specific exemptions and exceptions, all meetings of public bodies shall be open to the public and all public records open for public inspection.

The Town of Onancock complies with the state's Freedom of Information Act. There is no separate town policy that addresses FOIA.

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#### Your Rights Under FOIA

The Virginia Freedom of Information Act guarantees access by citizens and members of the media to the meetings of public bodies such as the Town Council, and their public records.

The law says that, in general, these meetings and records should be open to citizen inspection, with some specific exceptions, and requires that those exceptions be narrowly construed.

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#### Making a FOIA Request

It is recommended, though not required, that FOIA requests be made in writing. Requests can be made in person, by phone, by mail or electronically. It is not necessary to specify the reason for the request. However, you must provide your name and legal address.

- Members of the media making a request under the Virginia FOIA should contact the Town of Onancock, Town Manager at 15 North Street, Onancock, VA 23417 or call 757-787-3363. Requests can also be forwarded to the Mayor of the Town of Onancock at 15 North Street, Onancock, VA 23417.
- Members of the public making a Virginia FOIA request can also contact the Town of Onancock, Town Manager at 15 North Street, Onancock, VA 23417 or call 757-787-3363. Requests can also be forwarded to the Mayor of the Town of Onancock at 15 North Street, Onancock, VA 23417.
- Members of the public making a Virginia FOIA request regarding police matters please forward those requests to the Onancock Police Department, 15 North Street, Onancock, VA 23417 or call 757-787-8577.

Virginia FOIA requires that a request for public records must identify the requested records with "reasonable specificity".

A Virginia FOIA request may be made for any existing documents or reports; however, public bodies are not required under Virginia FOIA to create a new document that does not exist to satisfy a request. If a request requires a very large number of documents concerning the same issue, the public body may abstract or summarize the requested information being sought.

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## Fulfilling Virginia FOIA Requests

Within five (5) business days after a request is received, the public body must:

- Provide the requested records(s);
- Advise the requester that the record(s) are being withheld pursuant to Virginia FOIA or other applicable statute. This response must describe the subject matter of the records and identify the specific section of Virginia FOIA or the Code of Virginia that exempts the record from disclosure;
- In the case that only part of the record or only part of the records requested are exempt from disclosure, the town may remove the portion of the record(s) that is not public and provide the rest of the record, or remove the exempted record(s) and provide the rest of the record(s), along with an explanation of the subject matter of the information removed, and the specific portion of the Code of Virginia that exempts the portion of the record or the record(s) withheld;
- Inform the requestor that the requested records could not be found or do not exist. If the records are known to be held by another public body, the response must also include contact information for the other public body;
- Inform the requestor that the record(s) cannot be practically provided within five working days; in this an additional seven days is then provided, within which the public body must make the record(s) available.

The act does not require electronic delivery of requested documents, though they may be provided electronically if available.

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## Costs Associated with FOIA Requests

A public body is permitted to make reasonable charges not to exceed the actual cost incurred in accessing, duplicating, supplying or searching for the requested records. Public bodies are permitted to make reasonable charges only for the costs to access, search for, duplicate and supply requested records.

If asked for by the requestor, the public body must make an advance estimate of the charges, in any case where the public body determines in advance that the charges for producing the requested records will exceed \$200, the public body may, before continuing to process the request, require the requestor to agree to the payment of a deposit not to exceed the amount of the advance determination. The deposit will be credited toward the final cost of supplying the requested records. The time period for producing the records or making a response under FOIA is totaled for the amount of time that elapses between the notice of the advance determination and the response of the requestor.

Before processing a request for records, a public body may require the requestor to pay for any amounts owed to the public body for previous requests that remain unpaid for 30 more after billing.

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## FOIA and Public Meetings

All meetings of all public bodies, as defined in the Virginia FOIA, as well as any meetings of their committees or sub-committees, are generally required to be open meetings, subject to certain exceptions spelled out in the Act. An open meeting is a meeting open to the members of the public.

Under FOIA, for there to be a “meeting” subject to the Act, there must be at least three members of the body, or a quorum of the public body if less than three, present for the purposes of discussing or transacting public business. A gathering of public employees is not a meeting under the Act.

During the course of a public meeting, a public body may go into a closed meeting to discuss certain specific types of matters set forth in FOIA. In order to do so, the public body must follow the specific procedures set forth in FOIA to go into and come out of closed session.

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