

## **Freedom of Information Act (FOIA) Rights and Responsibilities of Treasurer**

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 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 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 purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that its provisions be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

### **Requester's FOIA Rights**

- You have the right to request to inspect and/or receive copies of public records.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in general district or circuit court to compel compliance with FOIA.

### **Making a Request for Records from New Kent County**

- You may request records by mail, fax, phone, e-mail, or in person. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA. Nevertheless, the New Kent County Treasurer's Office would prefer requests to be submitted in writing, or via email with your name and legal address.
  - From a practical perspective, it may be helpful to both you and the New Kent County Treasurer's Office to put your request in writing. This allows you to create a record of your request. It also gives the Treasurer's Office a clear statement of what records you are requesting. However, the County cannot refuse to respond to your FOIA request if you elect to not put it in writing.
- Your request must identify the records you are seeking with "reasonable specificity." This is a commonsense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that the Treasurer's Office can identify and locate the records that you are seeking.
- You may only request existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to general questions about the work of the New Kent County Treasurer's Office and its employees, nor does it require the Treasurer's Office to create a record that does not exist.

- You may choose to receive electronic records in the same format used by the New Kent County Treasurer's Office in the regular course of business.
- If the New Kent County Treasurer's Office has questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request.

### **New Kent County Treasurer's Responsibilities in Responding to Your Request**

The Treasurer's Office shall respond to your request within five (5) work days of receipt. "Day One" is considered the day after your request is received. The five -day period does not include weekends or holidays.

If the Treasurer's Office is unable to respond to a request within five (5) work days, the New Kent County Treasurer shall send a written response to the requester stating that it is not practically possible to respond within five days and specifying the conditions that make a response impossible. The Treasurer shall then have an additional seven (7) work days to respond to the request giving us a total of 12 working days to respond to your request.

If more than twelve (12) days is necessary to respond to a request for an extraordinary volume of records or which will require an extraordinarily lengthy search, the New Kent County Treasurer's Office shall make reasonable efforts to reach an agreement with the requester for more time. If an agreement cannot be reached, the Treasurer may petition the court for additional time to respond.

### **Where to send a FOIA request or direct questions regarding FOIA:**

- FOIA requests should be directed to Artina Braxton, Deputy Treasurer
  - By mail:  
New Kent County Treasurer's Office  
FOIA REQUEST  
P.O. Box 109  
New Kent, VA 23124
  - By fax: (804) 966-8538
  - By phone: (804) 966-9615
  - By email: [anwbraxton@newkent.va.us](mailto:anwbraxton@newkent.va.us)
- In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at [foiacouncil@leg.state.va.us](mailto:foiacouncil@leg.state.va.us), or by phone at (804) 225-3056 or toll free 1-866-448-4100.

## **Costs**

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 maintain 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.

We make every attempt to provide you with the information you are requesting without charge; however, depending on the complexity of your request, you may have to pay for the records that you request from the New Kent County Treasurer's Office. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items like personnel time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs. If the estimated cost exceeds \$200, we may require you to pay a deposit before proceeding with your request. Finally, if money is owed from a previous FOIA request that is more than 30 days past due, we may require payment of the past due amount before responding to a new FOIA request.

## **Commonly Used Exemptions**

- The Virginia Code allows any public body to withhold certain records from public disclosure. Commonly used exemptions that New Kent County may use are:
  - Personnel records (Virginia Code § 2.2-3705.1(1))
  - Records subject to attorney-client privilege (Virginia Code § 2.2-3705.1(2)) or attorney work product (Virginia Code § 2.2-3705.1(3))
  - Records of un-cashed checks or warrant lists (Virginia Code § 58-1-3131)
  - Records of individual taxpayer tax transactions (Virginia Code § 58.1-3)
- For a full list of exemptions, see Virginia Code § 2.2-3705.1 et seq.