

# TOWN OF HERNDON

*Enriching the Quality of Life and Promoting a Sense of Community*



## FAQs

### **THE FREEDOM OF INFORMATION ACT (FOIA) IN THE TOWN OF HERNDON**

#### **What is the Freedom of Information Act (FOIA)?**

The act is the primary state law governing citizen access to records of public entities and to their meetings. Generally, it establishes the principle that all public records should be open to citizen inspection. Although there are specific exemptions from these general rules of openness, these exemptions are applied narrowly. The act puts the burden on the public body in every instance to demonstrate why a meeting should be closed or a record withheld from disclosure. All public meetings and records are presumed open unless an exemption is properly invoked.\*

#### **Who is guaranteed rights under the act?**

The act gives any Virginia citizen and any non-resident representative of a newspaper, radio station or television station that broadcasts in Virginia the rights to have access to public meetings and to inspect and copy public documents. Incarcerated persons are not entitled to assert rights under the act.\*\*

#### **What is the Town of Herndon's policy relative to compliance with FOIA?**

The Town of Herndon supports good faith, timely and responsive compliance to citizens' requests for public records under FOIA. In 2007, the Herndon Town Council passed an ordinance that formalizes, clarifies and unifies its procedures in complying with FOIA.

#### **How can I request a record from the Town of Herndon?**

Records may be requested by any means, although the town requests that formal FOIA requests be submitted in writing and directed to the town's public information officer, 777 Lynn St., Herndon VA 20170. Requests may also be sent via email to [information@herndon-va.gov](mailto:information@herndon-va.gov).

#### **Do I need to explain my reason for requesting a certain record?**

No. Requesters are not required to provide information or explain why records are requested.

**Is the town required to generate reports or records, in compliance with my FOIA request?**

No. FOIA does not require that the town create records that do not already exist, or answer general questions.

**Can I require that record be provided to me in an electronic format?**

Yes. The town must provide records in electronic format used by the town and identified by the requester.

**What happens when my FOIA request is received by the town?**

Within five business days of receiving a request, the town will provide either the requested records or one of the following responses in writing:

- If the town is withholding some or all of the requested records (either because they are prohibited by law from release or because the law gives the town the discretion to withhold the records and the town is exercising that discretion), the town will identify the specific section of law that requires or permits the records to be withheld.
- If the requested records could not be found or do not exist, the town will notify the requester.
- If it is practically impossible for the town to respond to a request within five working days, the requester will be notified. This allows seven additional working days to respond to a request, for a total of 12 working days. If the town and requester reach an agreement on a different timeframe in which to provide the records, that timeframe will be followed.

**What are the costs associated with my FOIA request?**

The town is permitted to charge only for the costs of responding to a request, such as staff time spent searching for records, copying costs, or any other costs directly related to supplying the records. In addition:

- If the town's estimate to respond to a request exceeds \$200, a deposit (not to exceed the amount of the estimate) may be required before proceeding with the request. The five-day period request response time does not include the time between when the town asks for a deposit and when the deposit is provided.
- Requesters may ask for an estimate in advance of the charges for responding to the request.
- If money from a previous request has remained unpaid for more than 30 days, the town will require a requester to pay the past-due bill before it responds to a new FOIA request.

### **Are day-to-day, routine requests for information subject to this formal process?**

No. In developing the town's formal policy, the Herndon Town Council recognized that informal, routine requests for information occur on a day-to-day basis, and that these requests for access to or copies of readily available, concise and discrete public information should be accommodated informally. In cases where it is unclear, the town manager may determine whether a request is informal or formal.

### **How can I get more information on FOIA?**

The Virginia Freedom of Information Advisory Council is a state agency that answers citizens' questions about FOIA. The council may be contacted via email at [foiacouncil@leg.state.va.us](mailto:foiacouncil@leg.state.va.us) or toll-free at 1-800-448-4100.

(\* \*\*) Excerpted from the Local Government Official's Guide to the Virginia Freedom of Information Act, by Roger C. Wiley, published by Weldon Cooper Center for Public Service, University of Virginia