

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JULY 12, 2016

Ordinance- to amend and reenact Chapter 2 of the Code of the Town of Herndon, Sec. 2.2. - “Freedom of Information Act requests” to conform with amendments made to the state code effective July 1, 2106.

BE IT ORDAINED by the Town Council for the Town of Herndon, Virginia, that:

1. Article I, In General, Chapter 2, Administration, Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 2-2. Freedom of Information Act requests.

(a) The town supports good faith, timely, and responsive compliance to citizens' request for public records under the Virginia Freedom of Information Act (§ 2.2-3700 and following, Code of Virginia) (the Act).

(b) This policy effectuates the Act. Nothing in this section varies or legally may vary the Act. In case of a conflict, the Act prevails.

(c) Citizens are requested to reduce to writing their formal requests for copies of or access to public records so that the requested records are identified with reasonable specificity. The town will respond to written or non-written requests for copies of or access to public records under the Act.

(d) The Herndon Police Public Information Officer (HPD PIO) is hereby designated as the Town's FOIA officer for Town of Herndon Police records. The Chief Communications Officer (CCO) is hereby designated as the Town's FOIA officer for all other requests for public records.

(e) Citizens should direct formal requests for copies of or access to public records to the appropriate FOIA officer. The FOIA officer will coordinate and manage responses to formal requests for copying of or access to public records under the Act.

(f) The FOIA officer shall in written communication that meets the Act provide or render available non-exempt public records within five working days after the receipt of the request pursuant to the provisions of the Act.

(g) The town shall charge for the actual town reproduction costs of public records provided to and at the formal request of the citizen. The town manager shall establish in writing, document in a public filing, publicize, and periodically adjust based on prevailing reasonable rates the town's reproduction costs.

(h) The town shall charge the citizen a reasonable charge to cover town's actual personnel cost to access, search for, duplicate, and supply records subject to a formal request. The staff time for these services shall be the hourly rate of the employee, excluding fringe benefits. The town will not charge for time spent in supervision of the citizen's inspection and copying of the public records or for their preservation and safe keeping.

(i) The citizen requesting in a formal request copies of or access to public records may ask for an advance estimate of the town's costs for complying with the formal request for records. If the costs are likely to exceed \$200.00, the town will require the citizen to pay the estimated costs in advance before the town must provide access to or copies of the records subject to a formal request. If the town provided this advance cost estimate, the statutory period for response stops running until the citizen pays the estimate. The town and the citizen must make an equitable adjustment of such costs upon the provision of the public records.

(j) Where the request for public records is legally complex or raises legal questions, the town may charge the town attorney's hourly rate less fringe benefits for support of the handling of the formal request for copies of or access to public records.

(k) Nothing in this ordinance shall preclude the town manager, town attorney, or their respective staffs from informally responding to citizens without charge for reproduction or staff time to simple, day-to-day, or routine requests for access to or copies of readily available, concise, and discrete public information. Such requests are "informal requests" under the Act. All other requests under the Act are "formal requests." In case of doubt, the town manager may determine whether a request is a formal request or an informal request. The town manager's decision is final.

2. This ordinance shall be in effect on and after the date of its adoption.

This is certified to be a true and accurate copy of Ordinance 16-O-22 adopted at a legally convened meeting of the Town Council of the Town of Herndon on July 12, 2016.



Amanda M. Kertz

Amanda M. Kertz, Deputy Town Clerk