

Rights & Responsibilities:

The Rights of Requesters and the Responsibilities of the Town of Berryville under the Virginia Freedom of Information Act

Your FOIA Rights

- You have the right to request to inspect or receive copies of public records, or both.
- 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 district or circuit court to compel compliance with FOIA. Alternatively, you may contact the FOIA Council for a nonbinding advisory opinion.

Making a Request for records from the Town of Berryville

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA.
 - From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives the Town a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, the Town cannot refuse to respond to your FOIA request if you elect not to put it in writing.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense 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 Town staff can identify and locate the records that you are seeking.
- Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy **records or documents**. FOIA does not apply to a situation where you are asking general questions about the work of the Town, nor does it require the Town to create a record that does not exist.
- You may choose to receive electronic records in any format used by the Town in the regular course of business.
 - For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail, or to receive a printed copy of those records.

- If the Town 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. Making a FOIA request is not an adversarial process, but the Town may need to discuss your request with you to ensure that staff understands what records you are seeking.

Town of Berryville's Responsibilities in Responding to Your Request

- The Town of Berryville must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.
- The reason behind your request for public records from the Town is irrelevant, and you do not have to state why you want the records before we respond to your request. FOIA does, however, allow the Town to require you to provide your name and legal address.
- FOIA requires that the Town of Berryville make one of the following responses to your request within the five-day time period:
 - 1) We provide you with the records that you have requested in their entirety.
 - 2) We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
 - 3) We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 - 4) We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.
 - 5) If it is practically impossible for the Town to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- If you make a request for a very large number of records, and Town staff feels that the request cannot be fulfilled within 12 working days without disrupting other organizational responsibilities, the Town may petition the court for additional time to respond to your

request. However, FOIA requires that the Town make a reasonable effort to reach an agreement with you concerning the production of the records before going to court to ask for more time.

Types of records

The following is a general description of the types of records held by the Town of Berryville:

- Personnel records concerning employees and officials of the Town
- Records of contracts which the Town has entered into
- Agendas and Minutes of Town Council and its related boards and commissions
- Utilities records
- Planning and Zoning records
- Police Department records
- Financial records
- Public Works Department records

Commonly used exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. The Town of Berryville commonly withholds records subject to the following exemptions:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
- Security matters including IT security and access controls
- Records that relate to preventing or responding to cyber-attacks, the release of which would jeopardize safety

- Records relating to public safety
- Criminal Record exemptions
- Confidential law enforcement records including those identifying crime victims
- All other exemptions provided for under the Act may be exercised by the Town if deemed appropriate.

If you are unsure whether the Town has the record(s) you seek, or if you have any questions, please contact the appropriate FOIA Officer:

For **general Town of Berryville records**, the designated FOIA Officer is:

Ann Phillips, **Town Clerk**
Town of Berryville
101 Chalmers Court, Suite A, Berryville, VA 22611
Tel: 540-955-1099 Fax: 540-955-4524
foiatown@berryvilleva.gov

For **Police Department records**, the designated FOIA Officer is:

W. Neal White, **Chief of Police**
Town of Berryville
101 Chalmers Court, Suite A, Berryville, VA 22611
Tel: 540-955-3863 Fax: 540-955-0207
foiapolice@berryvilleva.gov