



CHESTERFIELD COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

Department: County Administration
Subject: Charging for FOIA request

Policy Number: 9-2
Supersedes: N/A
Date Issued: July 1, 2020
Date Revised: July 1, 2023

I. PURPOSE

This administrative procedure establishes guidelines for recovering taxpayer resources expended when complying with records requests and in accordance with the Virginia Freedom of Information Act.

II. DEFINITIONS

- A. **Virginia Freedom of Information Act** — The chapter of the Code of Virginia, § 2.2-3700 et seq., that establishes citizens' ready access to records in the custody of a public body.
- B. **Public records** — All writings and recordings, however stored and regardless of physical form or characteristic, prepared or owned by, or in the possession of, Chesterfield County or its officers, employees or agents in the transaction of public business.
- C. **Reasonable charge** — An amount charged not to exceed the county's actual cost incurred in accessing, duplicating, supplying or searching for requested records.
- D. **Employment category** — A predetermined grouping of employee positions in which responsibilities and/or pay may be similar.
- E. **Hourly charge rate** — A monetary amount charged per hour, associated with a specific category of employee, and representing the lowest possible hourly rate the county would pay for an employee within a specific category.
- F. **Cost threshold** — A predetermined amount below which the county does not charge for fulfilling a FOIA request.

III. STATEMENT OF NEED

Transparency is fundamental to good governance, and Chesterfield County has long maintained processes that ensure citizens have access to public records and that we do so in accordance with the Virginia Freedom of Information Act. The county's FOIA process has evolved to meet a growing demand for records, including creating a position to serve as a FOIA liaison and adopting technology to make the process of managing FOIA requests more efficient. Chesterfield County receives thousands of records requests annually, and the records of any County government department may be the subject to a FOIA request. About 25 departments are regularly involved in work to fulfill FOIA requests.

The Virginia Freedom of Information Act allows government agencies to make reasonable charges to recover public resources expended to provide records. By law, we must respond to FOIA requests

within five working days, meaning each FOIA request must be a priority for the necessary staff involved, requiring them to divert their attention away from regular duties to search for records.

With consideration for the volume of FOIA requests received and the staff time involved in responding to them, Chesterfield County has established a charge procedure to recover taxpayer expenses. This procedure does not aim to penalize or punish those who request records unduly. It establishes an effective cost threshold that ensures there will be no charge for requests that require minimal time to administer.

IV. SCOPE

This procedure applies to all FOIA requests fulfilled by Chesterfield County government.

V. IMPLEMENTATION

Effective July 1, 2020, Chesterfield County will charge for responding to FOIA requests. So that charges are not unduly prohibitive to requesters, charges for staff time are based on the lowest possible hourly pay for the category of employee who must complete the work. This ensures that we never exceed what is a reasonable charge for the work.

We have chosen to use eight standard EEO employment categories for full-time positions, calculating for each a corresponding hourly rate that represents the lowest possible amount the County could pay an employee within a category. Though most work related to FOIA requests is conducted by full-time employees, should a part-time employee be required to complete work related to a request, we will calculate an hourly rate that represents the lowest possible hourly wage the County would pay someone in that position.

Rates charged will be updated per fiscal year with data provided by the Human Resources Department. Chesterfield County reserves the right to charge at rates higher than the listed rates below, but not exceeding the actual cost of providing records, in cases when unusually large sums of time or specially trained staff are required to fulfill a request, in accordance with the Virginia Freedom of Information Act.

Employment Categories and Charge Rates

01 – Officials/Administrators	\$40.19
02 – Professionals	\$22.89
03 – Technicians	\$18.65
04 – Protective Services	\$18.65
05 – Paraprofessional	\$20.66
06 – Administrative Support	\$16.84
07 – Skilled Craft	\$20.66
08 – Service Maintenance	\$16.84

An employee working to fulfill FOIA requests will estimate their time spent and work with the County's FOIA liaison to calculate the appropriate amount to charge. In accordance with the Virginia Freedom of Information Act, specifically Va. Code § 2.2-3704(H), when we determine in advance that charges for producing requested records are likely to exceed \$200, we will require the requester to pay a deposit not exceeding the estimated amount before continuing to process the request. Requesters have the option to make payments by credit card online using the County's GovQA records center portal or by sending a check to the FOIA liaison. Certain constitutional officers manage FOIA requests separate from those directed to County government and will process their own invoices and payments in compliance with their own policies and procedures regarding charges.

VI. COST THRESHOLD

Understanding that there are instances in which the time and resources expended to collect and process a payment may exceed the value of a payment received, a cost threshold of \$20 has been set, and costs for responding to FOIA requests below that amount are waived.