(FOIA) FREEDOM OF INFORMATION ACT

The Rights of Requesters and the Responsibilities of CMCSB under the Virginia Freedom of Information Act:

The Virginia Freedom of Information Act (FOIA), located § 2.2-3700 et seq. of the Code of Virginia, 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 policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

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 CMCSB

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone.
- Your request must identify the records you are seeking with “reasonable specificity.” This requires that you be specific enough so that we can identify and locate the records that you are seeking.
- Your request must ask for existing records or documents; it does not apply to a situation where you are asking general questions about the work of CMCSB, nor does it require CMCSB to create a record that does not exist.
- If we have questions about your request, please cooperate with staff’s efforts to clarify the type of records that you are seeking. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.

To request records from CMCSB, you may direct your request to:

Joshua Savage
Corporate Compliance Office
Cumberland Mountain Community Services Board
P. O. Box 810
Cedar Bluff, VA 24609

You may also contact him by e-mail at jsavage@cmcsb.com or by telephone at 276-964-6702.

CMCSB’ Responsibilities in Responding to Your Request

- CMCSB must respond to your request within five (5) 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.

- You do not have to state why you want the records before we respond to your request. FOIA does, however, allow CMCSB to require you to provide your name and legal address.
- FOIA requires that CMCSB make one of the following responses to your request within the five-day time period:
    - If it is impossible for CMCSB 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 (7) additional working days to respond to your request, giving us a total of 12 working days to respond to your request; or
    - We provide you with the records that you have requested in their entirety; or
    - We inform you in writing that the requested records cannot be found or do not exist. 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; or
    - We inform you in writing that the records requested are being withheld because the release is prohibited by law or the records are subject to an exemption; or
    - We inform you in writing that the records requested are being produced in part and withheld in part because the release is prohibited by law or subject to an exemption. We will identify the subject matter which is being withheld and cite the specific exemptions that apply as a basis for withholding part of the records.

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 maintaining 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."
- You may have to pay for the records that you request from CMCSB. FOIA allows us to charge for the actual costs of responding to FOIA requests. This includes staff 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.
- We may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five (5) days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- You may request that we provide an estimate in advance of the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, CMCSB may require payment of the past-due bill before it will respond to any new FOIA request.

Types of records

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

- Personnel records concerning employees and officials of CMCSB
- Records of contracts which CMCSB has entered into
- Minutes/summaries and/or agendas of CMCSB Board of Directors meetings

If you are unsure whether CMCSB has the record(s) you seek, please contact Joshua Savage, Corporate Compliance Officer directly by e-mail at jsavage@cmcsb.com or by telephone at 276-964-6702.

Exemptions

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

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia);
- Written advice of legal counsel and any other attorney-client protected documents (§ 2.2-3705.1 (2));
- Legal memoranda compiled specifically for use in litigation or for use in an active administrative investigation (§ 2.2-3705.1 (3));
- Any test or examination used, administered or prepared by a public body for evaluation purposes;
- Records related to public safety ((§ 2.2-3705.2);
- Records related to administrative investigations (§ 2.2-3705.3);
- Health and social services records (§ 2.2-3705.2);
- 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)