

## Information to Support the Proposed Freedom of Information Act (FOIA) Amendments HB1878 – Williams Graves

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This document provides information to support the proposed Freedom of Information Act (FOIA) amendments. The amendments are necessary so that localities can protect citizens from any form of retaliation when they lodge a complaint with the locality regarding local property maintenance code violations.

For many years, every code enforcement complaint received by the City of Virginia Beach was considered anonymous, regardless of the type of code complaint. All local health, safety and nuisance related code complaints were considered “Zoning Complaints.” Many of these codes originated in the city’s zoning office but were transitioned to Housing at some point; and in many localities across the country, these types of codes are classified as “Zoning Codes.”

In 2021, the zoning complaint designation for the city’s overgrowth code was challenged and it was determined that the city could no longer use that exemption for local health, safety and nuisance codes simply because these codes were not housed within the city’s Zoning Ordinance. This resulted in the city having to release over 1,200 emails containing complainant’s personal information and an attorney using that information to send letters to each complainant threatening legal action against them for filing complaints with the city.

A second situation occurred when a property owner was cited to remove an excessive accumulation of tree debris which he deposited throughout his front yard. The debris created a view obstruction and traffic hazard at a neighborhood intersection, and a harbor for rodents and vermin. Court action was initiated against the property owner who then filed a FOIA request for all complaint records. A complaint record with an email address was released and within minutes of receiving the information, the property owner began sending threatening emails to the complainant.

A third situation where a complainant’s personal information was released almost escalated to a physical altercation. The complainant was followed, confronted, and threatened by his neighbor whose property he complained about. We must close this loophole to prevent retaliation against our citizens.

The current FOIA exemption:

- 1) Needs to be updated – the current exemption includes names, addresses and phone numbers, but not email addresses. Localities throughout the state have gone digital and most have transitioned to electronic customer management/complaint systems. Therefore, the exemption should be updated to include email addresses.
- 2) Was written to include complaints of local health, safety and nuisance related codes, under the general classification as “Zoning Complaints.” Localities where these types of codes are included within their “Zoning Ordinance” are already able to utilize the existing exemption. The amendments would make this consistent across the state. This point was brought up during the first and third FOIA Council meetings by a representative of a locality where these types of codes are zoning codes.

3) Is not based on or severity of the complaint. It was written to protect complainants from retaliation. Not all USBC and Zoning Codes pertain to immediate hazards (e.g.: peeling paint, damaged fencing, unapproved signs, unapproved nail salons operating from residential property, etc.). Minor USBC or zoning complaints are currently exempt, while codes that are in place to prevent the infestation of rodents that can spread disease are not exempt simply because of their classification or location within a locality's code of ordinances.

Allowing access to a complainant's personal contact information serves no purpose other than to fuel confrontations between neighbors. The world continues to become less safe. Therefore, we are working to proactively address a safety concern instead of being reactive when another tragedy occurs. These basic measures will update the FOIA and close the loophole that creates a safety concern for our citizens.