

**EXECUTIVE ORDER NO. 2026-011
IMPLEMENTING UPDATED OPEN RECORDS POLICIES**

Whereas, the City of Fort Mitchell desires to update its procedures to comply with changes to Kentucky's Open Records Act (KRS 61.870 to KRS 61.884) and recent Attorney General Opinions interpreting the same; and

Whereas, the City Council has amended Chapter 34 of the City's Code of Ordinances to direct administrative staff to develop policies and procedures consistent therewith to facilitate appropriate responses to Open Records Requests.

NOW THEREFORE, BE IT ORDERED BY THE MAYOR OF THE CITY OF FORT MITCHELL, KENTUCKY, AS FOLLOWS:

SECTION 1

The policies and procedures attached hereto as Exhibit A are hereby formally adopted and incorporated by reference as if fully set forth herein. Such policies and procedures shall carry the full force and effect of this Order.

SECTION 2

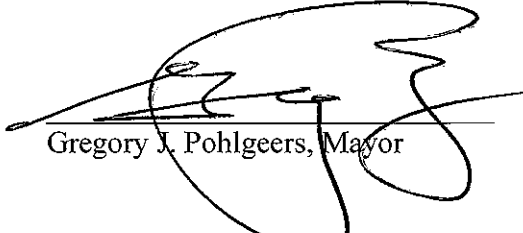
The policies and procedures shall be interpreted and applied in a manner consistent with all applicable federal, state, and local laws and regulations. In the event of any conflict, controlling law shall govern.

SECTION 3

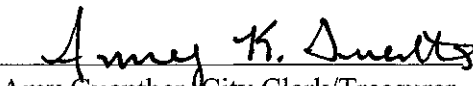
The City is authorized to amend these policies from time to time, or issue additional guidance, forms, and internal protocols as necessary to facilitate the effective and efficient implementation of the attached policies and procedures, provided such guidance remains consistent with this Order and controlling legal authority.

SECTION 4

This Executive Order, as well as the attached policies, shall take effect upon its execution. The City Clerk is directed to record this Executive Order and take all ministerial actions necessary to effectuate this Order.


Gregory J. Pohlgeers, Mayor

ATTEST:


Amy Guenther, City Clerk/Treasurer

EXECUTIVE ORDER NO. 2026-11**EXHIBIT A****PROCEDURES FOR REQUESTING PUBLIC RECORDS****SECTION 1. REQUESTS.**

- (A) Any person desiring to inspect or copy the public records of this city shall make a request for inspection at the office of the City Clerk during regular office hours, except during legal holidays. The official custodian, or the custodian acting under the authority of the official custodian, shall require a request to inspect public records to be in writing, signed by the applicant and with the applicant's name printed legibly on the application. A written request to inspect public records shall be presented by hand delivery, fax (859-331-1193), mail at 2355 Dixie Highway, Fort Mitchell, KY 41017, or via electronic mail to: CityClerk@fortmitchell.com.
- a. Pursuant to KRS 61.870 to 61.884, the public records of the City are open for inspection to "Residents of the Commonwealth" as defined in KRS 61.870(10), including: (1) an individual residing in the Commonwealth; (2) a domestic business entity registered with the Kentucky Secretary of State; (3) a foreign business entity registered with the Kentucky Secretary of State; (4) an individual that is employed and works at a location within the Commonwealth; (5) an individual or business entity that owns real property within the Commonwealth; (6) an individual or business entity authorized to act on behalf of any of the foregoing; and (7) a news gathering organization as defined in KRS 189.635(8)(b)1a. to e.
 - b. Requests may be submitted during business hours, 7:30 a.m. to 5:00 p.m., Monday through Friday, except holidays ("Business Days").
 - c. Although a request form may be made available, no particular form is required; however, each written request shall include, to the extent applicable: (1) name of requestor; (2) a statement that the requestor is a Resident of the Commonwealth (identifying the applicable category); (3) telephone number; (4) mailing address; (5) e-mail address; (6) a description of the records to be inspected or copied and the preferred method of delivery (e-mail, mail, or fax); (7) whether copies are requested; (8) the requestor's signature; and (9) whether the records are sought for a commercial purpose.
- (B) If the custodian determines that a person's request is in compliance with this chapter and the open records law, the requested public records shall be open for inspection by any resident of the Commonwealth, except as otherwise provided by KRS 61.870 to 61.884.
- (C) The City shall respond to requests made pursuant to this Chapter in accordance with the timelines set forth in KRS 61.872. As a general matter, the City intends to issue its written response

within five (5) Business Days, subject to any extensions of time permitted therein or otherwise authorized by applicable law.

(D) If the public records are to be inspected at the offices of the city, suitable facilities shall be made available in the office of the City Clerk or in another office of the city as determined by the official custodian or custodian for the inspection. No person shall remove original copies of public records from the offices of the city without the written permission of the official custodian of the record. When public records are inspected at the city offices, the person inspecting the records shall have the right to make abstracts and memoranda of the public records and to obtain copies of all written public records to the extent permitted by law. When copies are requested, the custodian shall require advance payment of the prescribed fee.

(E) Unless otherwise requested by the applicant or impracticable under the circumstances, all non-exempt public records responsive to a request shall be provided by electronic mail. Records maintained in electronic format shall be transmitted in their native or a reasonably accessible format via electronic mail whenever feasible. If the size, format, or nature of the requested records renders transmission by electronic mail impracticable, the records may be provided through an alternative electronic means or, if necessary, in hard copy form, and the City shall notify the applicant of the chosen method of production.

SECTION 2. REFERRAL TO PROPER CUSTODIAN.

If the City Clerk does not have custody or control of the public record or records requested, the City Clerk shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records, if such information is known and available.

SECTION 3. DENIALS; EXEMPTIONS FROM PUBLIC DISCLOSURE

The City reserves the right to deny any request for inspection or copying of records, in whole or in part, to the extent permitted by applicable law. Any such denial shall be based upon a specific exemption or other lawful basis recognized under KRS 61.870 to 61.884, or any other provision of federal or state law authorizing or requiring nondisclosure.

In the event of a denial, the City shall provide a written response identifying the legal authority supporting the denial and a brief explanation of how such authority applies to the requested records, consistent with applicable law.

SECTION 4. FEES

(A) Noncommercial Requests; Copying Fees.

(1) The city shall charge production fees consistent with the following fee schedule for the production of nonexempt public records requested for noncommercial purposes.

Media Type	Media Size	Cost
Paper Copy Black and White	8.5 inches by 11 inches	\$0.10 per page
Paper Copy Black and White	8.5 inches by 14 inches	\$0.15 per page
Paper Copy Black and White	11 inches by 17 inches	\$0.25 per page
Paper Copy Color	8.5 inches by 11 inches	\$0.25 per page
Paper Copy Color	8.5 inches by 14 inches	\$0.30 per page
Paper Copy Color	11 inches by 17 inches	\$0.35 per page
Photograph Black and White	Up to 8 inches by 10 inches	\$0.10 per photo
Photograph Color	Up to 8 inches by 10 inches	\$0.25 per photo
CD or Audio Tape	not applicable	\$2.00 each
Flash Drive	16 gigabytes (GB)	\$8.00 each
Flash Drive	32 GB	\$12.00 each

Larger flash drives will be charged at the rate of the time of purchase. In special cases where items are not listed and the city incurs actual costs related to making copies, that cost will be estimated and passed along to the requestor.

The fee shall not exceed the actual cost of reproduction. Fees shall not include the cost of staff time, except as provided in subsection (B)(3).

(2) The city shall require prepayment of the estimated copying costs and the actual cost of postage, shipping, or other delivery charges prior to production of the records.

(B) Commercial Purpose Requests.

(1) Unless otherwise prohibited by law, the city shall require a reasonable fee for copies of nonexempt public records requested for a commercial purpose.

(2) The city shall require a requester to submit a certified statement stating the commercial purpose for which the records shall be used and may require the requester to enter into a written contract governing the use of the records and payment of applicable fees.

(3) The fee for a commercial purpose request shall be based on the actual cost to the city of media, mechanical processing, and staff time required to produce the copies of the public records;

(4) The public agency may require advance payment of all estimated fees and costs associated with a commercial purpose request prior to processing the request.

SECTION 5. MISSTATEMENT OF PURPOSE PROHIBITED

It shall be unlawful for a person to obtain a copy of any part of a public record for a:

(A) Commercial purpose, without stating the commercial purpose, if a certified statement from the requestor was required by the public agency;

(B) Commercial purpose, if the person uses or knowingly allows the use of the public record for a different commercial purpose; or

(C) Noncommercial purpose, if the person uses or knowingly allows the use of the public record for a commercial purpose. A newspaper, periodical, radio or television station shall not be held to have used or knowingly allowed the use of the public record for a commercial purpose merely because of its publication or broadcast, unless it has also given its express permission for that commercial use.