

CITY OF DAYTON POLICY FOR THE INSPECTION AND COPYING OF PUBLIC RECORDS UNDER THE TENNESSEE OPEN RECORDS LAW (T.C.A. 10-7-504 ET SEQ.)

This policy speaks to the service charges assessed by the City of Dayton for handling public records requests. Tennessee public record laws set maximum fees the City can recoup for duplicating certain types of records in response to public records requests, such as the specific cost for copies on legal or letter sized paper. Otherwise, the City must charge the actual cost of duplication but may also set special service charges for labor costs or extensive use of technology.

POLICY

The City of Dayton will fully comply with the Tennessee Public Records Law and will respond to public record requests as soon as practicable and without unreasonable delay, in the manner described below.

PROCEDURES

I. Procedures regarding access to and inspection of public records.

The City Recorder is responsible for coordinating public records requests made to City of Dayton. The City Recorder will work with appropriate City staff in fulfilling the public records requests. All formal public records requests must be submitted in writing and directed to:

City of Dayton
City Recorder
P.O. Box 226
399 1st Avenue
Dayton, TN 37321

- A. To prevent excessive disruptions of the work, essential functions, and duties of employees of the City of Dayton, persons requesting inspection and/or copying of public records shall complete a records request form to be furnished by the City of Dayton. If the requesting party refuses to complete a request form, a City of Dayton employee shall complete the form with the information provided by the requesting party and shall note the person requesting the record refused to complete the form. Persons requesting access to open public records shall describe the records with particularity so the records may be located and made available for inspection or duplication, all requests for public records shall be directed to the records custodian.
- B. Employees of the City of Dayton shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of employees of the City of Dayton. The person inspecting records will not be allowed to have on their person a mobile phone, video camera, personal scanner, or anything that can take picture or video. All copying of public records must be performed by employees of the City of Dayton.

II. Initial response to public records requests.

The City Recorder has up to seven (7) business days to determine whether the city can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required. The City Recorder or their designee shall provide the requestor with the necessary assistance to help the requestor find the record. To the extent possible, the records requested shall be provided immediately. For one of the reasons listed below, if the records cannot be provided immediately, the City Recorder or their designee shall, for records requests made before 11:00 A.M., make a determined effort to provide them by the end of the working day. However, the City Recorder or their designee has the discretion to delay the delivery of the records for inspection, that discretion to be governed and limited by such reasonable variables as: the kind, amount, and nature of the records requested; uncertainty as to what records are requested; the location of the records requested; the format in which the records are requested; the extent of the City Recorder or their designee's resources to locate the records at the time the request is made; intervening emergencies, problems, and other events that might reasonably delay the delivery of the records for inspection; and the propensity of the request to create undue disruption of other essential department functions. The City Recorder or their designee shall never unnecessarily delay the delivery of records for inspection. If by the end of the second working day after the request for records is made the records are not provided to the requestor, the City Recorder or their designee shall notify the requestor, and note on the records request the reason for the delay and the approximate date the records will be ready for inspection. Within seven (7) business days of a request for records the City Recorder shall:

- (1) produce the records requested;
- (2) deny the records in writing, giving explanation for denial; or,
- (3) in the case of voluminous requests, provide, in writing, the requestor with an estimated time frame for production and an estimation of duplication costs.

When voluminous records are requested in writing using the designated form, the person requesting access shall make an appointment with the City Recorder or their designee. Appointments for inspection of records may be for no longer than two (2) hours in one day per request. If further inspection is needed by the requesting party, another appointment may be scheduled. The purpose of this policy is to prevent monopolization of working hours of City of Dayton employees and interference with their work duties. Employees shall make every effort to schedule appointments and copying of records so as to provide full access to the requesting party.

Some public records are stored, contained, or available as data or information within the memory or storage facilities of computer or electronic equipment, might be subject to inspection (and copying) only through the services of city employees familiar with the operation of equipment that facilitates the inspection (or copying). The City Recorder or their designee shall make a reasonable effort to ensure the records are available for inspection under the same rules governing inspection above. However, where these records are create special problems of determining confidentiality of all or some of their parts before they are viewed, additional delays of records may occur. The City Recorder or their designee shall keep these delays to a minimum. The City Recorder or their designee shall notify the requestor of the approximate length of delay in the delivery of the records for inspection, and enter it on the request for records.

Upon receiving a request to inspect a copy of a public record, the City Recorder or their designee shall grant the request unless he or she determines the record requested is confidential, in whole or in part, under the Tennessee Open Records Law and/or any other applicable law. In cases of records that are confidential in part, the City Recorder or their designee shall deliver for inspection the part of the record not confidential. Where the City Recorder or their designee is uncertain whether a requested record is confidential, he or she shall as expeditiously as possible consult with the city attorney. The City Recorder or their designee shall inform the requestor uncertainty exists as the confidentiality of the record, and on the request indicate the reason for the uncertainty with as much specificity as possible, and the approximate date the uncertainty will be resolved.

If the City Recorder or their designee determines the record is confidential, he or she shall notify the requestor, and specifically supply him with a rejection of the request, noting the reason the record is confidential and citing, if possible, the statute supporting the confidentiality.

The city's records shall remain in the physical custody of the City Recorder or their designee, and on the department's premises, at all times.

Any requestor who has submitted to the city a request for records is entitled to a copy of any record open for inspection. To the extent possible copies shall be made on the city's copying equipment. Where the equipment does not exist, is inoperative, is not designed to copy the records requested, or the requestor wants the copies in a format the city's equipment cannot duplicate, the copies may be made on commercial copying equipment.

III. Fees and Charges

Requestor must pay a per page cost for copies of records. Payment for the cost of copies shall be made by the requestor before the copies are made. The payment shall be based on the approximate number of copies requested. If the actual cost of the copies exceeds the amount previously paid by the requestor, the balance shall be paid by the requestor before the delivery of the copies. If the previous payment made by the requestor exceeds the cost of the copies, the excess shall be refunded to the requestor upon the delivery of the copies. The City Recorder or their designee have discretion to waive payment of costs if the requesting party is indigent.

Records that have information to be redacted have to be copied, information redacted, and redacted form is copied and is the actual page the requestor will receive. Requestors will be charged for the copy of the originally requested form and the copy of the redacted form.

There is no charge assessed to a requestor for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Open Records Counsel (OORC) schedule of reasonable charges, are as follows:

- (1) Standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy - \$.15 per page for each produced
- (2) Standard 8 1/2 x 11 or 8 1/2 x 14 color copy - \$.15 per page for each produced
- (3) Accident reports - \$.15 per page for each standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy produced
- (4) Certified copies - \$.50 per page for each produced

- (5) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the city.
- (a) The City Recorder may assess a requestor a charge for a duplex copy that is the equivalent of the charge for two (2) separate copies.
 - (b) If a public record is maintained in color, the City Recorder shall advise the requestor the record can be produced in color if the requestor is willing to pay a charge higher than that of a black and white copy. If the requestor then requests a color copy, the City Recorder may assess a charge of \$.50 per page for each 8 ½ x 11 or 8 ½ x 14 color copy produced.
 - (c) If the City Recorder's actual costs are higher than those reflected above or if the requested records are being produced on a medium other than 8 ½ x 11 or 8 ½ x 14 paper, the City Recorder may develop its own charges. The City Recorder must establish a schedule of charges documenting "actual cost" and state the calculation and reasoning for its charges in a properly adopted policy. The City Recorder may charge less than those charges reflected above. Charges greater than \$.15 for black and white, and \$.50 for color, can be assessed or collected only with documented analysis of the fact that the higher charges actually represent the City of Dayton's cost of producing such material; unless there exists another basis in law for such charges.
 - (d) Payment of copying fees is due when the copies are requested by the requesting party.
 - (e) If voluminous copies are requested the City of Dayton reserves the right to take 48 hours, during the work week, to prepare the copies.
 - (f) No open public records may be removed from a City of Dayton office for the purpose of copying by anyone other than a City of Dayton employee.
 - (g) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval, redaction, and duplication will not result in an assessment of labor charges to the requestor. Employee labor in excess of one (1) hour may be charged to the requestor, in addition to the cost per copy, as provided above. Payment in advance of producing any request is required by the City of Dayton. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.
 - (h) For a request requiring more than one employee to complete, labor charges will be assessed based on the following formula: In calculating the charge for labor, the City Recorder shall determine the number of hours each employee spent producing a request. The City Recorder shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The City Recorder will then multiply total number of hours to be charged for the labor of each employee by the employee's hourly wage. Finally, the City Recorder will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.
 - (i) When the total number of requests made by a requestor within a calendar month exceeds four (4), the requests will be aggregated, and the City Recorder shall charge a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requestor the aggregation limit has been met. Request for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, shall not be counted in the aggregated requests. Disputes as to aggregation shall be brought to

the Office of Open Records Council. Additionally, the City Recorder may aggregate the total number of public records requests made by a requestor and by any other individual, if the City Recorder reasonably believes the requestor to be acting in concert with or as the agent of another person, entity, or organization. If the City Recorder chooses to aggregate requests by multiple requestors must inform the requestors of the determination to aggregate and they have the right to appeal the decision to aggregate to the Office of Open Records Council. When aggregating the labor of multiple requestors, the records custodian must file a Notice of Aggregation of Multiple Requestors with the office of Open Records Council.

- (j) If the city is assessed a charge to retrieve the requested records from archives or any other entity having possession of requested records, the City Recorder may assess the requestor the cost assessed to the city.
- (k) Upon completion of a records request the requestor may pick up the copies of records at the office of the City Recorder. Alternatively, the requestor may choose to have the copies of records delivered via United States Postal Service, UPS, FEDEX, or other delivery service; provided the requestor pays all related expenses in advance.
- (l) Records maintained in electronic format will be delivered in electronic format.
- (m) The Police Chief shall maintain in his office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of Human Resources. Requests for personnel records, other than for undercover investigators, shall be made to the City Recorder, who shall promptly notify the Police Chief of such request. The Police Chief shall make the final determination as to the release of the information requested. In the event the Police Chief refuses to release the information, he shall provide a written explanation of his reasons for not releasing the information.
- (n) If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection.
- (o) Where the city's copying equipment is incapable of reproducing copies of the records requested, or its copying equipment is inoperative, the City Recorder or their designee shall notify the requestor. If the requestor decides he or she wants a commercially made copy of the records, he or she shall notify the City Recorder or their designee, who shall determine the estimated cost of the copies. If the requestor desires to obtain the commercial copies, he or she shall pay the estimated cost of the copies. If the actual cost of the copies exceeds the amount previously paid by the requestor, the balance shall be paid by the requestor before the delivery of the copies. If the previous payment made by the requestor exceeds the cost of the copies, the excess will be refunded to the requestor upon delivery of the copies.