CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
DECEMBER 10, 2013
7:00 PM

AGENDA

1. Meeting called to order
2. Roll call and determination of quorum
3. Approval of the November 12, 2013 minutes

PUBLIC HEARING

4. FILE NUMBER: 108-13-TXA-02
   APPLICANT: Campbell County Planning Department on behalf of the CC&MP&ZC
   REQUEST: Proposed update sections 300, 370, and 375 of the Subdivision
   Regulations clarifying dates.

5. FILE NUMBER: 113-13-TXA-02
   APPLICANT: Campbell County Planning Department on behalf of the CC&MP&ZC
   REQUEST: Adoption of new Fee Schedule for in-house plotting and reproductions.

6. Director’s Report
7. Adjournment

IF YOU CANNOT ATTEND THE MEETING,
PLEASE CALL THE P&Z OFFICE AT 859-292-3880.

The Commission will make every reasonable accommodation to assist qualified persons attending the meeting,
if there is a need for the Commission to be aware of, contact the office.
CAMPBELL COUNTY & MUNICIPAL PLANNING & ZONING COMMISSION
MINUTES OF THE DECEMBER 10, 2013 MEETING

MEMBERS PRESENT:
Mr. Larry Barrow
Mr. Dennis Bass
Ms. Lauri Harding
Mr. Edward Stubbs
Mr. Michael Williams, TPO
Mr. Tony Pfeffer, Vice Chair
Mr. Justin Verst, Chair

MEMBERS ABSENT:
Ms. Deborah Blake

STAFF PRESENT:
Ms. Cynthia Minter, Director
Ms. Stephanie Turner, Secretary

Mr. Verst called the meeting to order at 7:00 PM. Following roll call, a quorum was found to be present. The first call of business was to approve the meeting minutes from the last meeting of the Commission. Mr. Verst asked if everyone had reviewed the November 12, 2013 meeting minutes and asked if there were any additions or corrections. There being none, Mr. Verst called for a motion. Mr. Barrows made a motion to approve the November 12th meeting minutes as submitted. Mr. Williams seconded the motion. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs and Mr. Williams in favor of the motion. Mr. Verst abstained. Motion passed.

Mr. Verst introduced case #108-13-TXA-02, proposed update to Sections 300, 370, and 375 of the Subdivision Regulations, as proposed by the Campbell County Planning & Zoning Department on behalf of the CC&MP&ZC.

FILE NUMBER: 108-13-TXA-02
APPLICANT: Campbell County Planning & Zoning Department on behalf of the CC&MP&ZC
REQUEST: Proposed update Sections 300, 370, and 375 of the Subdivision Regulations clarifying dates.

Background:
Staff has submitted a request to modify the Subdivision Regulations based upon inconsistencies between sections.

Proposed Text Amendments:
SECTION 300
Summary of the Subdivision Review Procedure
The following articles apply to subdivisions or the divisions of land which are used for commercial, industrial, residential, or other types of uses. The subdivision of land can occur in two forms. The first form involves a minor division of land (conveyance plat) as outlined in the Definitions section of this document. A minor division of land involves the division of five (5) buildable lots or less from the parent tract, since January 1, 1982, including any remainder or residual tract(s), and is located along an existing public street. The minor division of land involves no widening or extension of a public or private street, and no public utility improvements. A conveyance plat may also be used to record casual sales or the transfer of property from one owner to another. If an applicant or property owner originally used the conveyance plat or minor division of land procedure,
but then decided to create more than five buildable lots from the parent tract, then he or she shall be required to follow the major division of land procedure.

SECTION 370
Conveyance Plat Review Procedure
A) The provisions for Conveyance Plat Review and approval are intended to provide a convenient and expeditious process for the conveyance or transfer of land in a minor division of land from the parent tract as described in Section 300 of this document.

B) A Conveyance Plat can be used in situations where there is a minor division of land of five (5) buildable lots or less from the parent tract, since January 1, 1982, and when no public street improvements or utility improvements, nor the construction or upgrade of private streets, are required. Each lot intended for building or development purposes must still meet the minimum standards in each zoning district as stated on the Zoning Map and in the Zoning Regulations. This type of plat is intended to allow the division of a single buildable lot (maximum 5 lots) from a large tract for building purposes and for the casual sales of property, including the sale of property for non-buildable lots, when the imposition of the full subdivision procedure would be unnecessary.

C) Conveyance Plats may be submitted at any time to the Planning Commission for Staff review and approval by the Chairman, Vice-Chairman, Temporary Presiding Officer, or designated staff of the Planning Commission. Two (2) copies shall be required for submittal and an application. The application and Conveyance Plat may be submitted during the regular business hours of the Planning Commission.

SECTION 375
Conveyance Plat Requirements
Conveyance Plats are intended to graphically represent the information of a boundary survey of property that is to be subdivided and thus reviewed by the Planning Commission. The Plat shall conform to the following requirements and conform to the minimum standards in the Kentucky Revised Statutes (K.R.S. 322).

A) Date, north arrow, and standard engineering scale: not less than 1"=200' unless approved by the Planning Commission Staff. Plats may not be larger than 8-1/2" x 14".

B) Name, address and seal of the Kentucky licensed Professional Land Surveyor responsible for the survey plat preparation and the Land Surveyor's Certificate (Appendix A).

C) Boundary of the parcel and subdivision of that parcel, including bearings and distances of each tangent course, and all necessary data for curve courses. The traverse that the boundary is depended on shall be in accordance with 201 KAR 18.150, and if requested by the Commission, closure documentation shall be submitted in addition to the plat.

D) Area in acres (accuracy of 0.001 acre) of the parcel; and remainder parcel if entire parent tract was surveyed.

E) Bearing and distance to a reference tie which may be the intersection of two dedicated right-of-ways, recorded subdivision corner, primary control network
monument (i.e. state plane coordinates), or a corner to the parent tract that the parcel is a division from.)

F) Location and names of public or private right-of-ways that adjoin the boundary.

G) Encroachments discovered in the course of the survey.

H) Names and recording information of adjoining property owners and/or recorded subdivisions with section or phase number.

I) Current, legible vicinity map with an accurate scale.

J) Group number as established and published by the Campbell County Clerk's Office.

K) Statement by the applicant on whether the transfer will be used or is being used for building or non-building purposes (Appendix E).

L) Description of all monumentation, including notation as whether found or set, and the type of monument used in accordance with 201 KAR 18.150 (See Section 381).

M) When a parcel adjoins either an existing or proposed arterial, collector, subcollector or local public street, one half the right-of-way as prescribed by Section 405 shall be dedicated and shown on the plat. This right-of-way is measured from the centerline. A signed and notarized certificate of the owner(s) indicating dedication of this right-of-way shall be on the plat. A statement of dedication shall be on the plat (Appendix E).


O) Show the location and dimensions of a cemetery if it exists on the site, and the required 30 foot exclusive cemetery easement (Article 4 Design Standards).

P) The following statement shall appear on the plat.

"This plat shall be void if not filed with the Campbell County Clerk for recording purposes within six (6) months of Planning Commission approval."

Q) A digital copy of the Conveyance Plat if the plat was computer generated (in CAD, DWG, DXF or other format subject to approval from the Administrative Official).

Recommendation:
That the Planning Commission adopt the proposed text amendments to the Campbell County Subdivision Regulations.

Supporting Information/Bases For Staff Recommendation:
1. Pursuant to KRS 100.273, the Campbell County & Municipal Planning & Zoning Commission has the authority to adopt subdivision regulations.

2. The proposed modifications to the Subdivision Regulations are consistent with KRS 100.281.
3. The proposed modifications are Subdivision Regulations are consistent with the Campbell County Comprehensive Plan.

4. Proper notice, in accordance with KRS 424, of the public hearing has been given.

Ms. Minter concluded her report by asking if there were any questions she could answer for the Commission. Mr. Verst thanked Ms. Minter for her report and asked if there were any questions for staff. There being none, Mr. Verst opened the public comment portion of the meeting. There being no audience present at the meeting, Mr. Verst closed the public comment portion of the meeting. Mr. Verst opened the floor for discussion among the Commissioners.

Mr. Verst asked if there were any comments or items for discussion regarding this case. There being none, Mr. Verst called for a motion. Mr. Williams made a motion on case #108-13-TXA-02, proposed update to Sections 300, 370, and 375 of the Subdivision Regulations, to approve the text changes as proposed by the Campbell County Planning & Zoning Department as reflected in their staff report. Mr. Stubbs seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs and Mr. Williams in favor of the motion. Mr. Verst abstained. Motion passed.

Mr. Verst introduced the final case #113-13-TXA-02, proposed adoption of new fee schedule for in-house plotting and reproductions, as proposed by the Campbell County Planning & Zoning Department on behalf of the CC&MP&ZC.

**FILE NUMBER:** 113-13-TXA-02  
**APPLICANT:** Campbell County Planning & Zoning Department on behalf of the CC&MP&ZC  
**REQUEST:** Adoption of new fee Schedule for in-house plotting and reproductions.

**Background:**  
Article 11 of the Bylaws of the Campbell County and Municipal Planning & Zoning Commission (CC&MP&ZC) provides that "The requirements for the submission of applications, requests and associated fees are set forth in the Campbell County Zoning Ordinance and the Campbell County Subdivision Regulations." A fee schedule is provided for in Article XIX Schedule of Fees of the Campbell County & Municipal Planning & Zoning Ordinance.

It has been noted that portions of the approved Schedule of Fees for copy and reproduction services are inconsistent with other County departments and/or disproportionate for the service provided to those conducting business with the P&Z Department. This proposed request is to align these fees based upon available equipment and industry customary fees.

**Request:**  
Updating the Planning & Zoning fee schedule.

**Proposed Text Amendments:**

**VIII. GIS-Mapping Scanning and Plotting**

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Recommendation:
To recommend to the Fiscal Court that the amendments to the CC&MP&ZC Fee Schedule be adopted.

Supporting Information/Bases For Staff Recommendation:
1. Kentucky Revised Statutes (KRS) section 100.177 states that “Any planning commission shall have the right to receive, hold and append funds for which it may legally receive from any and every source...for the purpose of carrying out the provisions of this chapter.”

2. Adoption of the revised fee schedule would assist the Campbell County and Municipal Planning and Zoning Commission.

3. Adoption of the revised fee schedule would establish planning and zoning fees that are consistent within County departments.

Ms. Minter explained that, when someone comes to the County Administration Building and requested a copy of something, our office may charge one fee while another down the hall would charge a lower fee. Our goal is to obtain as close to uniform pricing between the different offices as possible. At the same time, we have some very nice copy equipment for oversized documents. We want to allow people to use this equipment if they are submitting that information to us for that purpose and that is why the equipment is there. It is appropriate that we recoup our cost to provide that service, but not necessarily an overbearing fee for it.

Ms. Minter concluded her report by adding that legal counsel advised that the fee schedule as set did not match the cost as regulated by KRS 61.874 which Ms. Minter read into the record.

"KRS 61.874. Essentially, what this statute says is that for an open records request for a noncommercial purpose for hard copy documents we are only obligated to produce copies in 8 1/2 X 11"
Ms. Minter asked if the Commission had any questions for staff. Mr. Verst asked if there were any questions for staff. Mr. Pfeffer stated that Ms. Minter had commented that this pricing was more in line with fees charged by other County offices. Was there any discussion regarding establishing a county rate sheet so that in a couple of years the Commission is not again reviewing pricing fees for copies? The Commission could then just state that we will follow the pricing sheet as established by Fiscal Court. Ms. Minter stated they did not discuss it because we are the only office with plotting equipment. It really comes down to, if they just want 8 ½ X 11, 8 ½ X 14 or 11 X 17's, other departments can do those. Until the Attorney General comes back and says the acceptable rate is other than $0.15 cents per page, there shouldn’t be a rate change. For our department, with the plotting equipment, Ms. Minter advised the Commission that pricing comparison was performed to ensure that the most fair and comparable pricing was established.

Mr. Verst asked if there were any other questions for staff. There being none, Mr. Verst opened the public comment portion of the meeting. There being no audience present at the meeting, Mr. Verst closed the public comment portion of the meeting. Mr. Verst opened the floor for discussion among the Commissioners.

Mr. Verst stated that if there were no discussion from the Commission, he would entertain a motion. Mr. Barrow made a motion on case #113-13-TXA-02, proposed adoption of new fee schedule for in-house plotting and reproductions, to recommend to Fiscal Court that they adopt the fee changes as reflected in the staff report. Mr. Williams seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs and Mr. Williams in favor of the motion. Mr. Verst abstained. Motion passed.

There being no other cases to come before the Planning Commission, Mr. Verst called for the Director’s Report.

DIRECTOR’S REPORT

Ms. Minter thanked the Commission for updating their training records with staff. At this time, Ms. Minter asked that the Commission approve training for the following:

Approve Training for P&Z Commissioners:
- Michael Williams – OKI: Land Use Commission Workshop [3.0 hours]
- Deborah Blake – NKAPC: Embracing New Urbanism in Your Comprehensive Plan [3.0 hours]
- Dennis Bass – SD1: ASH Street Pump Station [2.0 hours]

Approve Training for BOA Commissioners:
- Sharon Haynes – Cemetery Workshop at the Old Burlington Cemetery [3.0 hours]
- Joe Williams – Rethink Construction: EPSC Site Compliance Workshop & Field Day [6.0 hours]

Approve Training for Staff:
- Cindy Minter – NKAPC: Link-GIS Website Training [2.0 hours]
• Cindy Minter – Cincinnati-Hamilton County Homeland Security: Raven911 Training [2.0 hours]
• Ryan Hutchinson – NKAPC: Link-GIS Website Training [2.0 hours]
• Ryan Hutchinson – NKAPC/NKU: ArcMAP Training [12.0 hours]

Mr. Barrow made a motion to approve training for the Commissioners of the Planning & Zoning Commission, the Board of Adjustment and staff. Mr. Bass asked if he would be eligible to vote on the issue since some of the training was his. Ms. Minter advised that, since it was a group vote, he would be eligible to vote to approve the training. Mr. Williams seconded the motion. Mr. Verst called for a roll call vote. A roll call vote found Mr. Barrow, Mr. Bass, Ms. Harding, Mr. Pfeffer, Mr. Stubbs and Mr. Williams in favor of the motion. Mr. Verst abstained. Motion passed.

Ms. Minter let the Commissioners know that the person who expressed interest in filing the vacancy on the Commission has declined an invitation to join the Commission. As a result, there is still a vacancy on the Commission representing the Unincorporated Campbell County. Mr. Williams asked if the prospect had to reside in the Unincorporated Campbell County. Ms. Minter stated it was preferred. There are steps that can be taken to fill a void if there are no candidates from the representing area. However, Ms. Minter would prefer to wait a little longer before those steps are considered.

Ms. Minter made the Commission aware of a training opportunity to learn more about floodplains and FEMA. It is a very informative website with training videos available online. Ms. Minter stated that if the Commissioners participate in this training to advise them at the next meeting of the amount of time they spent in training and this can be added to their records.

Ms. Minter advised the Commission that she attended the Celebration of Stewardship of the St. Anne Woods and Wetlands held on November 21 at 3:00 PM. There was a handout provided to the Commissioners showing the generous acknowledgment from St. Anne’s of their thanks for the Commission’s assistance. This handout was distributed at that Celebration to the attendees. Ms. Minter circulated her copy so they could read the kind words themselves. With that, Ms. Minter concluded her Director’s Report.

Mr. Verst asked if there was any other business to discuss. There being none, Mr. Verst asked for a motion to adjourn. Mr. Williams made a motion to adjourn. Mr. Stubbs seconded the motion. An oral vote found everyone in favor, none opposed. Motion passed. Meeting adjourned at 7:20 PM.

Respectfully Submitted,

Cynthia Minter
Director

Approved:

Justin Verst
Chair
ARTICLE 3

PROCEDURE FOR SUBDIVISION APPROVAL

SECTION 300

Summary of the Subdivision Review Procedure

The following articles apply to subdivisions or the divisions of land which are used for commercial, industrial, residential, or other types of uses. The subdivision of land can occur in two forms. The first form involves a minor division of land (conveyance plat) as outlined in the Definitions section of this document. A minor division of land involves the division of five (5) buildable lots or less from the parent tract, since January 1, 1982, including any remainder or residual tract(s), and is located along an existing public street. The minor division of land involves no widening or extension of a public or private street, and no public utility improvements. A conveyance plat may also be used to record casual sales or the transfer of property from one owner to another. If an applicant or property owner originally used the conveyance plat or minor division of land procedure, but then decided to create more than five buildable lots from the parent tract, then he or she shall be required to follow the major division of land procedure.

The second form involves a major division of land or six (6) or more buildable lots from the parent tract, including any remainder or residual tract(s), and/or subdivisions which include public utilities and/or public or private streets. The review procedure for a major division of land involves a preliminary plat, improvement plan, and a final plat. If, however, the division of land of six (6) or more buildable lots does not require any public utility or public street improvements, the developer will only be required to submit a Preliminary Plat and a Final Plat for review and approval. Finally, even if the developer is beyond the minor division of land or the five (5) buildable lot requirement, then the developer shall follow the requirements of a major division of land.

A) Minor Division of Land - The subdivider or applicant submits a Conveyance Plat to the Planning Commission for review and approval based upon the requirements in Section 375 of this document. Once approved, the subdivider or applicant may then proceed to record the conveyance plat in the County Clerk's office. If the new owner of the property intends to build a structure, then he or she may then proceed to obtain a zoning permit for each tract in the subdivision from the Planning Commission staff and a building permit from the Campbell County Building Inspection Department.

Where a Minor Division of Land involves three or more lots, the provisions of Section 405(H)2 also apply.

3.1
B) Upon Planning Commission approval, the owner shall forward a copy of the Final Plat will be forwarded to the Property Valuation Administration (PVA). The owner shall forward the original drawing to the Campbell County Clerk's office.

C) Approval of the Final Plat by the Planning Commission shall not constitute the acceptance by the appropriate legislative body of the public dedication or maintenance of any street or other facility nor shall it imply acceptance by the Campbell County Clerk for recording purposes.

D) A Final Plat shall be recorded in the Campbell County Clerk's office within one (1) year from the date of the Planning Commission's approval or else the Final Plat shall become void.

SECTION 370
Conveyance Plat Review Procedure

A) The provisions for Conveyance Plat Review and approval are intended to provide a convenient and expeditious process for the conveyance or transfer of land in a minor division of land from the parent tract as described in Section 300 of this document.

B) A Conveyance Plat can be used in situations where there is a minor division of land of five (5) buildable lots or less from the parent tract, since January 1, 1982, and when no public street improvements or utility improvements, nor the construction or upgrade of private streets, are required. Each lot intended for building or development purposes must still meet the minimum standards in each zoning district as stated on the Zoning Map and in the Zoning Regulations. This type of plat is intended to allow the division of a single buildable lot (maximum 5 lots) from a large tract for building purposes and for the casual sales of property, including the sale of property for non-buildable lots, when the imposition of the full subdivision procedure would be unnecessary.

C) Conveyance Plats may be submitted at any time to the Planning Commission for Staff review and approval by the Chairman, Vice-Chairman, Temporary Presiding Officer, or designated staff of the Planning Commission. Two (2) copies shall be required for submittal and an application. The application and Conveyance Plat may be submitted during the regular business hours of the Planning Commission.

SECTION 375
Conveyance Plat Requirements

Conveyance Plats are intended to graphically represent the information of a boundary survey of property that is to be subdivided and thus reviewed by the Planning Commission. The Plat shall conform to the following requirements and conform to the minimum standards in the Kentucky Revised Statutes (K.R.S. 322).

A) Date, north arrow, and standard engineering scale: not less than 1"=200' unless approved by the Planning Commission Staff. Plats may not be larger than 8-1/2" x 14".

B) Name, address and seal of the Kentucky licensed Professional Land Surveyor responsible for the survey plat preparation and the Land Surveyor's Certificate (Appendix A).
C) Boundary of the parcel and subdivision of that parcel, including bearings and distances of each tangent course, and all necessary data for curve courses. The traverse that the boundary is depended on shall be in accordance with 201 KAR 18.150, and if requested by the Commission, closure documentation shall be submitted in addition to the plat.

D) Area in acres (accuracy of 0.001 acre) of the parcel; and remainder parcel if entire parent tract was surveyed.

E) Bearing and distance to a reference tie which may be the intersection of two dedicated right-of-ways, recorded subdivision corner, primary control network monument (i.e. state plane coordinates), or a corner to the parent tract that the parcel is a division from.

F) Location and names of public or private right-of-ways that adjoin the boundary.

G) Encroachments discovered in the course of the survey.

H) Names and recording information of adjoining property owners and/or recorded subdivisions with section or phase number.

I) Current, legible vicinity map with an accurate scale.

J) Group number as established and published by the Campbell County Clerk's Office.

K) Statement by the applicant on whether the transfer will be used or is being used for building or non-building purposes (Appendix E).

L) Description of all monumentation, including notation as whether found or set, and the type of monument used in accordance with 201 KAR 18.150 (See Section 381).

M) When a parcel adjoins either an existing or proposed arterial, collector, subcollector or local public street, one half the right-of-way as prescribed by Section 405 shall be dedicated and shown on the plat. This right-of-way is measured from the centerline. A signed and notarized certificate of the owner(s) indicating dedication of this right-of-way shall be on the plat. A statement of dedication shall be on the plat (Appendix E).


O) Show the location and dimensions of a cemetery if it exists on the site, and the required 30 foot exclusive cemetery easement (Article 4 Design Standards).

P) The following statement shall appear on the plat.

"This plat shall be void if not filed with the Campbell County Clerk for recording purposes within two (2) years six (6) months of Planning Commission approval."

Q) A digital copy of the Conveyance Plat if the plat was computer generated (in CAD, DWG, DXF or other format subject to approval from the Administrative Official).
### VIII. GIS Mapping/Scanning and Plotting

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**All fees are due at the time of application, unless otherwise specified, and are nonrefundable.**
Kentucky Heritage Land Conservation Fund

Protecting Kentucky’s Natural Treasures

The Kentucky Heritage Land Conservation Fund (KHLCF) was established by the 1994 Kentucky Legislature and is administered by a 12-member board. The board provides funding for preserving and conserving natural areas that possess unique features such as:

- Areas that are a habitat for rare and endangered species.
- Areas important to migratory birds.
- Areas that perform important natural functions that are subject to alteration or loss.
- Areas to be preserved in their natural state for public use, outdoor recreation and education.

The Heritage Land Conservation Fund Board gives special consideration to funding agencies working together to meet these goals.

The fund is supported by the state portion of the unmined minerals tax, environmental fines, the $10 additional fee to purchase a Kentucky Nature License Plate, and interest on the fund's assets.

Grants can be awarded to local governments, state colleges and universities, specified state agencies, and land trusts to acquire and protect areas of natural significance.

Since the first awards were made in October 1995, the Heritage Fund has now protected and conserved over 80,000 acres of land in 67 counties of the Commonwealth.

To learn more about the KHLCF, visit http://heritageland.ky.gov or phone 502-573-3080.

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Campbell County Conservation District
8350 E. Main Street, Alexandria, KY
41001859-635-9587 or 859-635-5666
FAX: 859-635-0496

Office hours: Mon., Wed., Fri., 8 a.m. - 4 p.m.
E-mail: campbellcd@fuse.net
Web site: http://home.fuse.net/campbellcd

Find us on Facebook - Campbell County Conservation District, Kentucky

District Board Supervisors
Ron McCormick, Chairman;
Dennis Walter, Vice Chairman;
Ken McCormick, Secretary/Treasurer;
Gen Dobbs; Linda Bray-Schaffer;
Sanford Record, and Rick Simon.

District Staff
Linda Grizzell, Administrative Secretary
Mary Kathryn Dickerson, District Coordinator
John Stork, Agriculture Conservation Technician
Erin Rowekamp, Intern

Ky. Division of Conservation
Linda Hunter, Field Representative

The Campbell County Conservation District is a Special Purpose Government Entity of the Commonwealth of Kentucky, formed by referendum of the citizens in 1945. It is charged with the duty to work for the improvement and conservation of the soil, water, and related natural resources. It is the mission of the Campbell County Conservation District, in accordance with state statute, to plan for the best use of land and other natural resources within the district, encourage the use of Best Management Practices to control soil erosion and sedimentation during all land use activities, improve water management, and encourage the improvement of damaged lands, croplands, forests, and wildlife habitat.

All programs and services of the Conservation District are offered on a nondiscriminatory basis, without regard to race, color, national origin, sex, sexual orientation, religion, age, disability, political beliefs and marital or familial status.

St. Anne Woods & Wetlands
Campbell County, Kentucky
Stewardship Celebration
St. Joseph Park
St. Anne Retreat Center
Thurs., November 21, 2013
3:00 p.m.
License Plates

Purchases of Kentucky Nature Conservation Fund will help support the work of the Research and Education Center.

Kentucky Heritage Land

Thank you to those who wrote letters of support.

An additional supporter of the Saint Anne Woods & Wetlands is the Saint Anne Retired Center.

St. Anne Retired Center

F. Jeff Bankemper

St. Alice Cathedral Foundation

St. Fran Moore

Conservation Fund Board of Directors

Red Wease

 Fiscal Court

County Executive

Steve Pendergraft

Conservation District

Mary Kathryn Dickerson

Conservation District

Ron McComick, Chairman

November 2, 2013

Thursday, 3:00 p.m.

Celebration Stewardship

St. Anne Woods & Wetlands

was established in 1949.

1969 when the St. Anne Council was established. Additional acreage, now known as the Wetlands

County, the original acres of land were acquired by the city of Providence in the early

Today, the Saint Anne Woods & Wetlands near Madisonville holds a unique place in the history of Campbell

The Campbell County Conservation District will work with our partners, the Kentucky Heritage Land

The Saint Anne Woods & Wetlands, a public entrance and parking facility

The Bluff is an open area for educational and research purposes.

Stewardship of the Saint Anne Woods & Wetlands will help keep the land legacies and provide education for generations to come.
(3) The public agency may prescribe a reasonable fee for making copies of nonexempt public records requested for use for noncommercial purposes which shall not exceed the actual cost of reproduction, including the costs of the media and any mechanical or processing cost incurred by the public agency, but not including the cost of staff required. If a public agency is asked to produce a record in a nonstandardized format, or to tailor the format to meet the request of an individual or a group, the public agency may at its discretion provide the requested format and recover staff costs as well as any actual costs incurred.

(4) (a) Unless an enactment of the General Assembly prohibits the disclosure of public records to persons who intend to use them for commercial purposes, if copies of nonexempt public records are requested for commercial purposes, the public agency may establish a reasonable fee.

(b) The public agency from which copies of nonexempt public records are requested for a commercial purpose may require a certified statement from the requester stating the commercial purpose for which they shall be used, and may require the requester to enter into a contract with the agency. The contract shall permit use of the public records for the stated commercial purpose for a specified fee.

(c) The fee provided for in subsection (a) of this section may be based on one or both of the following:

   1. Cost to the public agency of media, mechanical processing, and staff required to produce a copy of the public record or records;

   2. Cost to the public agency of the creation, purchase, or other acquisition of the public records.

(5) 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 requester was required by the public agency pursuant to subsection (4)(b) of this section; or

(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.

(6) Online access to public records in electronic form, as provided under this section, may be provided and made available at the discretion of the public agency. If a party wishes to access public records by electronic means and the public agency agrees to provide online access, a public agency may require that the party enter into a contract, license, or other agreement with the agency, and may charge fees for these agreements. Fees shall not exceed:

   (a) The cost of physical connection to the system and reasonable cost of computer time access charges; and

   (b) If the records are requested for a commercial purpose, a reasonable fee based on the factors set forth in subsection (4) of this section.


https://www.lexis.com/search/retrieve7?_r=3000a12926b04ad4d664b1a76386cf6e&;... 12/3/2013
NOTES: Kentucky Bench & Bar.


Northern Kentucky Law Review.


Opinions of Attorney General.

A person does not have a right to require a list to be made from public records if the list described does not already exist; if the list exists and is not otherwise confidential by law, a person may inspect the list and obtain a copy of it; a person desiring that list be made or that he have copies of broad categories of information must expend his own time in digging out the information unless it has already been compiled. OAG 76-375.

Blanket requests for information on a particular subject without specifying certain details need not be honored for state employees may not be requested to make compilations of records, but the public has a right to inspect compilations which have been made in the course of business unless the subject matter is confidential by law. OAG 76-375.

The Open Records Act does not charge state agencies with the duty to provide records upon a request made by mail. OAG 76-375.

The right to have copies of records is an ancillary to the right of inspection it does not stand by itself; if a person has not inspected the records he desires to copy and cannot describe them with specificity, there is no requirement that copies of any records must be delivered to him; a citizen may make a fishing expedition to public records on his own time and under the restrictions and safeguards of the public agency, but a willingness to pay for copies of records is insufficient to put the state agency under obligation to furnish broad categories of records. OAG 76-375.

If the Real Estate Commission prepares a list of applicants for the real estate examination in special form for the purpose of selling to real estate schools and others, it may charge for the copies required to prepare the list, but if a record is already in existence the fee can only be for the copying expense not including staff costs. OAG 78-132.

It is within the discretion of the custodian of public records to require a person inspecting and copying records of a county judge/executive to leave a copy of all such copies with the custodian of public records as a precondition of inspecting those records. OAG 78-399.

A clerk is not responsible in any way to any person who may be misled if a certified copy of an order of appointment is given to an administrator named in the copy who uses it to show his appointment, when actually the estate has not been settled. The clerk, however, has no duty to inform the public of the active or inactive status of each estate. OAG 79-136.

The clerk is not responsible for determining whether an estate has been settled before making certified copies of court orders showing appointment of administrators, executors, etc., in connection with the administration and settlement of estates. OAG 79-136.

Since the filed library district petition requires a fiscal court to check its validity on its face, it does not become a full-blown public record, for purposes of the Open Records Law, until after fiscal court has determined its validity. OAG 79-265.

While a library district petition is needed by the clerk and his staff to check the validity of the signatures, etc., for fiscal court, the custodian may reasonably delay inspection of the record and the making of copies until after the verification process has been concluded. OAG 79-265.

Search - 1 Result - 61.874. Abstracts, memoranda, copies -- Agency may prescribe fee -- ... Page 3 of 16

Search - 1 Result - 61.874. Abstracts, memoranda, copies -- Agency may prescribe fee -- ... Page 4 of 16

It is not incumbent upon a public agency to provide records to inmates who are unable to go to the office where the records are kept because of their legal confinement. OAG 79-546.

All oral history records which have been taped and which have not been restricted by an agreement with the interviewees are open to both public inspection and copying regardless of whether the Kentucky Historical Society has obtained and has on file a signed release, and this rule applies whether the request for inspection is made by a researcher or any other person. OAG 79-646.

There is no distinction in the Open Records Law which would allow researchers access to records only for the purpose of auditing without allowing the obtaining of a copy. OAG 79-648.

Since the cost of staff time required in making copies of public records is excluded from the fee which may be charged for such copies, a charge of $1.00 a page for a copy of a public record is an unreasonable fee. OAG 80-421.

Where a requester seeks photocopies of all official minutes of any special or regular school board meetings held in a certain county in 1981 and photocopies of all regular or special meetings held in the future, it is discretionary, as to the past meetings, whether the agency should first require the requester to inspect the records before ordering copies or to provide copies of the complete records for a reasonable fee without first inspecting them, and, as to the future meetings, there is no right of the requester to request copies of future meetings, since the right to copy is ancillary to the right to inspect under subsection (1) of this section. OAG 81-212.

The registration of vital statistics improperly denied a request from a newspaper reporter to inspect all death certificates and death verification certificates in the possession of or control of a county health department where the registrar based such denial upon the requirement of KRS 213.190 (now repealed) that the applicant have a direct, tangible and legitimate interest in the record. The right to obtain a certified copy under KRS 213.190 (now repealed) is different from the right to inspect and obtain copies provided in this section and no special standing need be shown under the latter statute. OAG 81-400.

Fifty cents ($0.50) per page was not a reasonable fee for copying a record. OAG 82-396.

The Open Records Law provides that any person can inspect the original record and cannot be required only to purchase a copy of the original record. OAG 82-396.

A comprehensive care center does not have to comply with a request for a copy of records by the person who is the subject of the records and who is a minor or who has been legally adjudged incompetent, but if the person is a competent adult he is entitled to have a copy of the records. The center may charge him a reasonable fee per page for a copy of the record which shall not exceed the actual cost thereof not including the cost of staff required. OAG 82-414.

The Open Records Law does not contemplate that a public agency shall send requested records to a person who has not inspected them. OAG 82-629.

A sheriff's office is not required to send a copy of records which have not been inspected by the requester even though the requester is an inmate who is not able to personally inspect the records because of legal confinement. OAG 82-629.

The Open Records Act does not require the county clerks of Kentucky to provide copies of public records upon a request made by mail. OAG 83-42.

Where the requesters of copies of records had not inspected any of the records, and had not described any specific records, custodian of records was under no duty to furnish the copies requested; the right to have copies of records is ancillary to the right of inspection and does not stand by itself. OAG 83-42.
Subsection (2) of this section is a residual and general statute and applies where there is no other applicable and specific fee statute; KRS 64.012 will apply where the language on that schedule is appropriate and applicable to the particular clerk’s record. OAG 83-42.

The fee charged for a copy of a will, a land purchase contract, and assignment of a land purchase contract would be governed by subsection (2) of this section, the general law, while the fee for copies of a deed of trust, a deed and a real estate mortgage would be governed by KRS 64.012. OAG 83-42.

Under subsection (2) of this section, the cost computation cannot include the officer personnel cost; it can only relate to the cost in terms of the copier machine, paper and allied supplies. OAG 83-42.

The provisions of KRS 61.072, 61.874 and 61.876, when taken together, require that public agencies have a policy of allowing inspection of public records, of protecting the records, of preventing excessive disruption of the agency’s functions, of providing copies upon request, of providing efficient and timely action in response to applications for inspection and of charging a reasonable fee based on the actual cost of making copies not including the cost of staff required; these three (3) sections allow public agencies a certain amount of leeway as to handling requests for records by mail and mailing copies to requesters who have not personally inspected the records and selected the items which they want copied. OAG 83-204.

Public agencies should accommodate requesters whenever they can within the bounds of the efficient operation of their office. Whenever only one (1) item is requested, or a few precisely described items which are readily available within the office, and no special search is required, it will be more convenient both to the agency and to the requestor to answer the request through the mail; to require the requestor to appear in person at the office of the agency in such a case would not be more convenient to either party and would only inhibit the intended purpose of the Open Records Law. OAG 83-204.

The stated policy of the Finance and Administration Cabinet not to furnish copies of bids requested by mail was in accordance with the Open Records Law. OAG 83-204.

The “reasonable fee” provision of subsection (2) of this section applies only when there is no other applicable fee statute; KRS 64.012, pertaining to fees of county clerks, therefore governs over subsection (2) of this section in a case of conflict. OAG 84-91.

Requested records pertaining to annual copying costs and fees should be made available for public inspection by any person inspecting the records and selected through a copy should be sold that copy; however, there is no requirement that the agency send copies of records until the requestor makes his inspection. OAG 84-91.

As long as full access is provided and the records are protected from damage and disorganization, there is no statutory prohibition against the agency waiving a fee for certain requestors. OAG 84-300.

The North Central Comprehensive Care Center, Inc. is a public agency subject to the Open Records Law since its revenue consists of substantially in excess of 25 percent funding from state grants and contracts for services and the five dollars ($5) fee for copies of the initial one (1) to five (5) pages of its records is unreasonable and inconsistent with the actual cost mandated of subsection (2) of this section. OAG 84-300.

Fee of public agency of $5.00 per page for copies of the initial one (1) to five (5) pages is unreasonable. OAG 84-300.

While the public agency should have responded in writing pursuant to subsection (1) of KRS 61.080, to the requesting party’s letter pertaining to the request for copies of documents, the public agency was not mandatorily required to send copies of records to a party requesting by mail when the requesting party had not first inspected those records and then selected the items he wanted copied, particularly when numerous records and documents were involved. OAG 86-24.

While a public agency should accommodate mail requests when possible, particularly when only a few precisely described documents are requested, a public agency is not legally required to honor mail requests for copies of documents when numerous records and documents are involved; thus, the urban county government acted within the provisions of the Open Records Act when it afforded the requesting party (or her representative) the opportunity to inspect the documents in question at an office of the urban county government and declined to send copies of the documents prior to inspection, particularly where numerous records and documents were involved. OAG 86-85.

The response of the public agency to the request to inspect documents that some of the requested documents did not exist was sufficient and proper; however, the public agency’s attempt to restrict the requesting party’s inspection of those records which did exist to one-half hour a week was unreasonable and illegal restriction on the right to inspect public records, and such records were to be made available for inspection immediately. OAG 87-54.

If the county clerk’s office could not demonstrate that the fee list set forth in KRS 64.012 was applicable to the documents requested by the newspaper reporter, then subsection (2) of this section applied relative to the costs that a public agency could charge for copies of documents. OAG 87-54.

The public agency was not bound by the provisions of subsection (2) of this section, pertaining to costs levied for copies of existing public records, to the material requested by the requesting party involved a list which did not exist when the request was made, and the public agency could therefore charge what it cost to prepare, program, and reproduce a list containing the material in question. OAG 88-19.

It is not incumbent upon a public agency to provide documents to inmates who are unable to go to the office where the records are kept because of their confinement. OAG 88-44.

While the school system may refuse to disclose the home addresses of students, it may not withhold the names of students attending the school. A list of names should be furnished, if currently available, or the school system should prepare such a list, or let the requesting party prepare his or her own list from school system records. OAG 88-50.

The public agency is not mandatorily required to send copies of records by mail to a requesting party when that person has not first inspected those records and then selected the items he or she wants copied, particularly when numerous records and documents are apparently involved. OAG 89-60.

The Department of Insurance is bound by the provisions of subsection (2) of this section in calculating the fees it charges for copies of documents where such costs are not specifically covered by other statutory enactments; fees charged in excess of the actual costs are in violation of the Open Records Act, and the public agency should recalculate the fees imposed to conform to the statutory requirements. OAG 86-74.

If the county clerk cannot demonstrate that the records involved are included in the provisions of KRS 64.012, then the amount to be charged for copies of the records is governed by subsection (2) of this section, unless the county clerk can demonstrate that it actually costs fifty cents ($0.50) per page to provide copies of documents, considering the applicable fees set forth in KRS 61.087(4), he should recalculate the fees imposed to conform to the statutory requirements. OAG 89-9.

Upon inspection, copying of the minutes of special meetings of a County School Board must be permitted; a reasonable fee, not exceeding the cost thereof, can be imposed for the copies. OAG 89-9.
One having inspected records is entitled to be furnished copies of them upon payment of a reasonable fee. Such fee shall not exceed the actual cost of copying, and may not include the cost of staff required. OAG 89-43.

An agency is not required, under Open Records provisions, to provide copies upon request, except after records have been inspected. OAG 89-33.

One who inspects public records shall have the right, upon inspection, to obtain copies of records inspected. OAG 89-55.

Copies of records need not be provided except upon inspection, and copies of records that have not been inspected do not have to be furnished by mail or by fax transmission. OAG 89-96.

The right to copies of public records is ancillary to inspection. OAG 90-8.

A county property valuation administrator did not act other than consistently with Open Records provisions in declining to provide copies of records that had not been inspected. OAG 90-31.

There is no requirement in the Open Records provisions that a public agency furnish copies of records that have not been inspected, and the opportunity to have copies of public records is ancillary to inspection. OAG 90-31.

Requiring inspection prior to furnishing copies is an important part of Open Records provisions, as requiring inspection prior to making copies aids in preventing frivolous requests, and may prevent controversy regarding whether the proper records were copied. OAG 90-31.

The opportunity to have copies of public records is ancillary to their inspection. OAG 90-35.

City’s actions were not consistent with Open Records provisions where, In contravention of KRS 61.972(1), it denied a request for the use of a film read-printer and a cassette tape player, thereby failing to provide suitable facilities for inspection of its records. Additionally, the city failed to act consistent with Open Records provisions where, in contravention of subsection (2) of this section, it established a $.25 per page fee for copies of records, when such fee was not based upon the actual cost, exclusive of personnel expenses, for making copies. OAG 90-50.

The provision of subsection (2) of this section means that the fee charged for copies should be based on the actual expense to the agency, excluding the cost of staff. The fee is thus limited to the cost of maintaining copying equipment by purchase or rental, and the supplies involved. OAG 91-98.

If public agency from whom copies of records are requested cannot demonstrate that the cost of a copy is covered by another specific statutory enactment, the provisions of subsection (2) of this section govern. Any fee charged in excess of the actual cost violates the Open Records Act. OAG 91-98.

Since the University of Kentucky Medical Center is clearly a public agency, it is therefore subject to the Open Records Act and the demand of $153 reproduction fee by the Medical Center was inconsistent with subsection (2) of this section. OAG 91-98.

The right to obtain copies is ancillary to the right of inspection and does not stand by itself. OAG 91-159.

The record requested, a trial transcript, is clearly a court record, and is therefore not subject to the reasonable fee provision found in subsection (2) of this section. OAG 91-193.

Attorney General opined that Custodian of Records' actions, in denying inmate's request for a

https://www.lexis.com/research/retrieve?m=3000a12296b04aad8b664b1a76385c0f&amp;... 12/3/2013

A copy of his transfer authorization form pursuant to KRS 61.876 because inmate's account had no money to cover the reproduction costs, were entirely consistent with the Open Records Act, because a public agency is authorized to prescribe reasonable fees for making copies of public records pursuant to KRS 61.876(1)(c) and subsection (2) of this section. OAG 91-210.

If the county clerk's office cannot demonstrate that the records requested by a citizen's group are among those identified in KRS 64.012, and governed by that statute, the amount which may be charged for copies is governed by subsection (2) of this section; unless the county clerk's office can then demonstrate that the cost to the county clerk's office for providing copies is indeed 50 cents per page, based on the facts set forth in subsection (2) of this section, the county clerk's office should recompute the fees imposed to conform to the statutory requirements. OAG 92-79.

A prison inmate has the same right to inspect public records as any other person. The identity of the requester is irrelevant. Under existing law, an agency need not provide copies of records to inmates who are unable to go to the office where the records are kept because of their legal confinement, although it may elect to do so. After July 14, 1992, however, an agency will be required to supply copies of records if the applicant resides outside the county in which the records are located, the applicant specifically requests the records, and the records are readily available within the public agency, upon receipt of a reasonable fee for making copies. OAG 92-94.

A $100 "production cost" fee assessed by the Lottery Corporation was excessive and violative of subsection (2) of this section where a request for information was not made under the Public Access to Governmental Bodies Act, and where the Lottery Corporation was not authorized to unilaterally treat it as a request under that Act without discussion and a meeting of the minds. OAG 93-ORD-44.

In imposing copying charges upon the general public, county clerk may lawfully charge only the specific amount provided by statute, where applicable, and otherwise, only a reasonable fee not exceeding the actual cost of such copies, not including the cost of staff required to furnish copies. OAG 94-58.

Since a police report does not appear to fall within the parameter of a separate fee statute, subsection (2) of this section governs, and any fee charged in excess of the Department's actual cost is a violation of the Open Records Act. OAG 94-ORD-77.

A sign on the wall of police department stating that requestors will be charged $5.00 for copies, without the place of information being announced, did not provide the police department with authority to charge $5.00 for copies; therefore, the police department must recompute the fee it imposes for copies to conform to the requirements of subsection (2) of this section and should also remove the sign which appears on its wall, and replace it with a revised notice which conforms to subsection (2) of this section and KRS 61.876. OAG 94-ORD-77.

The refusal of the State police to waive the copying charge of case file requested by newspaper reporter was proper since the statutes contain no provision for waiver of such fees and the media has only such right of access to public records as the general public has. OAG 94-ORD-90.

The Department of Personnel may not read an additional requirement, such as entering into a contract, into the law by attempting to compel the Kentucky Association of State Employees (KASE), who had requested a copy of the Department's database, to enter into a contract permitting use of the database for a stated noncommercial purpose, and thus frustrate access to the records on the grounds that KASE lacks the capacity to contract. OAG 95-ORD-9.

Subsection (5) of this section, which provides severe penalties for persons who misrepresent the purpose for which the records they request will be used, applies in the event that the information requested is used, secondarily, for a commercial purpose, if a noncommercial purpose was given by the requester. OAG 95-ORD-9.
A public agency can no longer flatter deny a request for electronically stored records on the ground that the intended use of the records is a commercial one, or otherwise treat electronically stored records any differently than it treats records in a hard copy format. If the nonexempt records exist in both standard electronic and standard hard copy format, and the requester complies with the requirements of subsection (3) of this section, the agency must permit inspection of and copying of the records in the format designated by the requester. OAG 95-ORD-12.

Nothing in the Open Records Act statutes permits an agency to restrict a person to whom records have been released from reproducing those records or sharing them with others; accordingly a county board of education cannot restrain a recipient from reproducing the records with which she has been furnished. OAG 95-ORD-77.

Although a public agency is not required to create a document that does not already exist, in order to satisfy a request, the agency may, of course, elect to do so, and recover its staff costs; however, the mere deletion of exempt information from an existing document does not result in the creation of an entirely new record for which a public agency could recover costs. OAG 95-ORD-82.

Considering that KRS 61.878(4) mandates redaction of exempt material when it is commingled with nonexempt material and that the reasonable fee provision found in subsection (3) of this section specifically excludes the staff cost required, it is clear that the General Assembly intended that public agencies bear the cost of redaction. OAG 95-ORD-82.

The deletion of juvenile law enforcement records, per KRS 610.320(3) and KRS 61.878, from an existing database of exempt records is not equivalent to the production of a record in a specially tailored or standardized format with the meaning of subsection (3) of this section; thus, the Division of Police is required to discharge this duty under KRS 61.878(4), provide the requested records, and bear the cost of redaction. OAG 95-ORD-82.

The Department may discharge its duty under the Open Records Act by simply opening its records to a person so requesting and allowing him to expend his own time and efforts extracting the information in which he has an interest. Although such person may wish to assert his auxiliary right to obtain copies of those records once he has inspected them, providing copies of 5000 documents is, and of itself, unreasonably burdensome. OAG 95-ORD-155.

This section authorizes public agencies to prescribe a reasonable fee for making copies of nonexempt public records requested for noncommercial purposes which shall not exceed the actual cost of reproduction. These statutes contain no provision for the waiver of such fees for copies made for public officials under an open records request. In general, all persons have the same standing to inspect and receive copies of public records, and are subject to the same obligations for receipt thereof. Accordingly, a board member may be charged a reasonable fee for copies made pursuant to an open records request. OAG 96-ORD-110.

The Department of Medical Services improperly relied on the OAG 1994 amendments to the Open Records Act in adopting a policy which distinguishes between commercial and noncommercial use of public records. Any open records policy which impedes access to nonexempt public records by more than three (3) working days violates provisions of the Act. OAG 96-ORD-168.

To the extent that the Department for Medicaid Services’ records policy incorporates the 1994 amendments to the Open Records Act, it is constitutionally infirm. The Department cannot require applicants to submit a certified statement of commercial or noncommercial use, or to assess higher copying charges for records requested for commercial use. OAG 96-ORD-168.

The burden on the public agency to respond in three (3) working days is not infrequently an arduous one. Nevertheless, the only exceptions to this general rule are found at KRS 61.872(4) and (5). Unless the person to whom the request is directed does not have custody and control of the records, or the records are in active use, in storage, or are not otherwise available, the agency is required to notify the requester of its decision within three (3) working days, and to provide the requester with timely access to the requested records. OAG 96-ORD-168.

Where response from the Transportation Cabinet, Division of Driver Licensing to a request to inspect various records relating to a client’s licensing process initially required payment to a rehabilitation center for forty dollars ($40.00) for an “in-car driver evaluation” performed at the center, later modified to a cost of one dollar ($1.00) per page for the report, the Cabinet violated the reasonable fee provision of the Open Records Act, subsection (3) of this section. The courts and the Office of the Attorney General have determined that a charge of ten cents ($0.10) per page is reasonable for a standard 8-1/2 inches x 11 inches paper copy. It should also be noted that under KRS 422.317(1), if the Cabinet had not returned a copy if the requesting party had not proceeded under the Open Records Act, KRS 422.317(1) may have required a release of the records without charge. OAG 96-ORD-267.

University could not and was not required to furnish former employee records that did not exist; however, the university did not provide former employees records that had been furnished to the EEOC and KCHR upon prepayment of reasonable copying charges as a public agency cannot withhold public records from an applicant simply because they may be obtained from another source. OAG 97-ORD-87.

The fee charged for copies is limited to the proportionate cost of maintaining copying equipment by purchase or rental and the supplies involved; providing copies of nonexempt public records is not a “sale” of records; it is a compliance with the legislative mandate to make public records open and available for inspection and at a reasonable cost; there is therefore no provision in the Open Records Act that authorizes an agency to charge a sales tax on copies of public records provided to an open records request. OAG 98-ORD-88.

KRS 61.872 and this section contains no provision for waiver of the prepayment requirement for inmates; thus, it is entirely proper for a correctional facility to require prepayment and to enforce its standard policy relative to assessment of charges to inmate accounts, despite the delays this may entail. OAG 99-ORD-30.

A county clerk did not violate the Open Records Act in imposing a one dollar and fifty cents ($1.50) charge for certified copies of official bonds executed by public officials which he furnished in response to an open records request as KRS 64.012 authorized a charge of two dollars ($2.00). OAG 99-ORD-56.

The Department of Workers Claims did not violate the Open Records Act in a request for certain data from the department’s coverage/compliance database as the department did not maintain the requested information in the format prepared by the requester and special programming would have been required to fulfill the request. OAG 99-ORD-68.

An agency cannot impose a standard $2.00 fee for copies of reports generated in response to open records requests unless the fee reflects its actual costs, excluding staff costs, or unless there is an independent statutory basis for the fee. OAG 99-ORD-74.

An agency subverted the intent of the Open Records Act, short of denial of inspection, by requiring a requester to pay sales tax for copies of public records in addition to the reasonable fee contemplated by subsection (3) as the provision of records under the act is not a sale of the records. OAG 99-ORD-102.

A university’s fifteen cents ($0.15) per page copying fee for open records requests was excessive where the university charged its faculty and students five to eight cents ($0.05 to $0.10) per page, while charging those not associated with the university ten cents ($0.10) to use the coin operated machines on campus, and fifteen cents ($0.15) for copies made pursuant to an open records request; the university explained that the graduated rate schedule served to cross-subsidize the discount rate given to its faculty and students, but the Open Records Act does not...
authorize such a fee arrangement for reproducing copies of public records and, instead, the fee charge must be based upon the agency's actual cost for reproducing records per page, based on the cost of media and mechanical processing. OAG 99-ORD-180.

Although subsection (4)(b) does not, by its express terms, require a requester to disclose the purpose of its request, the fee charge must be based upon the agency's actual cost for reproducing records per page, based on the cost of media and mechanical processing. OAG 99-ORD-180.

As a county failed to establish that its actual cost of reproducing records for copies of public records was twenty-five cents ($0.25) per copy, such a charge was an excessive copying fee. OAG 99-ORD-222.

A fifteen dollar ($15) fee charged for a copy of a 36" by 42" map was excessive to the extent that such fee was not based on the agency's actual cost of making the copy of the map. OAG 00-ORD-74.

Twenty-five cents ($0.25) per copy is an excessive charge for copies of public records. OAG 99-ORD-154.

A correctional institution failed to establish that its actual cost for reproducing a copy of an audio tape was four dollars ($4) and, therefore, it was required to recalculate its copying fee to conform to the requirements of subsection (3) and to charge the inmate accordingly. OAG 99-ORD-159.

To the extent that fifty cents ($0.50) per page copying fee which a fiscal court imposed exceeded its actual costs, the fee was excessive and out of order. OAG 99-ORD-163.

The statute is residual and general and applies where there is no other applicable fee statute; if a county clerk furnishes copies of records specifically identified in the Uniform Fee List, which is found at KRS 64.012, the fee charged for copies may be based on that list, but if the clerk furnishes copies of records not identified in the list, he may charge a reasonable fee that does not exceed the actual cost of reproduction, excluding staff costs. OAG 01-ORD-110.

A charge of one hundred dollars ($100) to serve as a down payment against the anticipated cost of the programming that would be necessary to generate requested data was proper. OAG 00-ORD-165.

A charge by a city for copies of records of twenty-five cents ($0.25) per page was improper where the city failed to establish that its actual cost for reproducing records was twenty-five cents ($0.25) per page, based on the cost of media and mechanical processing. OAG 00-ORD-184.

Because the requester requested information in a specially tailored format, the agencies properly exercised their discretion under KRS 61.874(3) to require payment of its actual costs, as well as its costs for the programming, if the requester elected to proceed under the Open Records Act. The agencies did not violate the provisions of KRS 61.870 through KRS 61.884 by underestimating the actual cost of the programming. OAG 01-ORD-19.

The city's policy of charging fifty cents ($0.50) per page is not a reasonable copying charge within the meaning of KRS 61.874(3). If a public agency charges more than ten cents ($0.10) per page, it must release the information for copying at the city's cost. OAG 01-ORD-42.

KRS 61.874(3) directs that the fee charged for copies should be based on the agency's actual expense, not including staff costs. Accordingly, the school system cannot charge for staff time in reproducing a copy of the minutes. Such a charge is not authorized under KRS 61.874(3).

Since KRS 61.872(3)(d) and KRS 61.874(1) contain no provision for waiver of the prepayment requirement for inmates, it was entirely proper for the correctional facility to require prepayment and to enforce its prepayment policy relative to assessment of charges to inmate accounts. OAG 01-ORD-104.

The copying charges of twenty-five cents per page imposed by the Community Program Center of the Telecommunications Board of Northern Kentucky violated the reasonable fee provision codified at KRS 61.874(3). OAG 01-ORD-50.

Since the General Assembly did not designate a standard format for videotapes, the concept of "standard format" has no place in a discussion of anything other than electronic or hard copy records maintained in the media described, and therefore the agency can only provide a copy of a videotape if the agency maintains the record. OAG 01-ORD-91.

Unless an agency can establish that its actual cost for reproducing records was fifty cents ($0.50) per page, based on the cost of media and mechanical processing as defined in KRS 61.870(7) and (8), the charge is excessive and out of order. OAG 01-ORD-114.

The twenty-five cents ($0.25) per page copying fee imposed by the city is excessive, and KRS 61.874(3) requires it to adjust its copying fee to reflect its actual costs (four cents ($0.04) per page) or no more than ten cents ($0.10) per page. The city may not seek to defray the costs it incurs for producing free copies of records stored in other physical media (such as cassettes and disks) by assessing higher copying charges for records reproduced in hard copy format. OAG 01-ORDER-136.

Although they are required to do so, public agencies may agree to extract electronically stored information to conform to the parameters of an open records request and in so doing, incur "business costs" in addition to media and mechanical processing costs. Such charges would constitute an actual cost to the agency that could properly be passed along to the requester. The fifty dollar ($50) per hour charge which the department seeks to impose is consistent with KRS 61.874(3) only if it reflects actual costs incurred, and can be substantiated. OAG 01-ORD-158.

A copying charge of $279.90, $208.00 of which is based on an hourly labor charge, is unreasonable and must be reduced to ten cents ($0.10) per page, excluding labor costs, unless the county can substantiate actual costs in excess of this amount. OAG 01-ORDER-193.

The fact that the Treasury can, at additional programming costs, extract the unclaimed property information the requester seeks does not mean that it must. Public agencies are not required to extract electronically stored information to conform to the parameters of an open records request, but may do so at their discretion. The Treasury has properly exercised its discretion in the negative. OAG 02-ORD-48.

The Information the requester was required to submit in the "Request for Reproduction of PVA Public Records," relating to his specific purpose in requesting the records, and including the "Non-Commercial Applicant's Certified Statement," exceeded the permissible limits of KRS 61.872 and
KRS 61.874(4)(b). Further, a request submitted by an individual acting on behalf of a political candidate, whether paid or unpaid, cannot be characterized as a request submitted for a commercial purpose. OAG 02-ORD-89.

Since no evidence has been submitted to substantiate that the Board’s actual costs for reproducing copies of its public records is 25 cents per page, the 25 cents per page charge is an excessive copying fee. Unless the Board can demonstrate that its actual cost for reproducing records, excluding staff costs, is greater than ten cents ($0.10) per page, it must recalculate its copying fee to conform to the requirements of KRS 61.874. OAG 02-ORD-198. Kentucky State Reformatory is required by KRS 61.874(1) to supply the inmate with copies of the record he had already been permitted to inspect. OAG 02-ORD-210.

Since no evidence has been submitted to substantiate that the Jail’s actual costs for reproducing copies of its public records, not including staff costs, is 15 cents per page, the 15 cents per page charge is an excessive copying fee. Unless the Jail can demonstrate that its actual cost for reproducing records, excluding staff costs, is greater than ten cents ($0.10) per page, it must recalculate its copying fee to conform to the requirements of KRS 61.874. OAG 02-ORD-217.

Although the county clerk substantiated a copying fee of 15 cents per page and may impose a fee in this amount, the better practice is to impose a fee of 10 cents per page inasmuch as this fee strikes a reasonable balance between the agency’s right to recover its actual costs, excluding staff costs, and the public’s right of access to copies of records at a nonprohibitive charge. OAG 02-ORD-218.

While the Department’s entire database may contain more or less information than the requester seeks, it clearly contains information that is responsive to her request and the Department is obligated to afford her access to it after redacting individual Medicaid recipient information and other information made confidential by federal enactment. Redaction of the latter information from an existing database is not equivalent to nondisclosure or creation of a new record. OAG 03-ORD-04.

The Property Valuation Office’s charge for records requested for a commercial purpose were reasonable. The Revenue Cabinet indicated that the amount charged was $37.00, an amount calculated by reference to the PVA Open Records Commercial Fee Guidelines Issued by the Cabinet in accordance with the Open Records Act and KRS 133.047. OAG 03-ORD-25.

It is not appropriate for the department to compel the requester to pay the additional cost of mailing the records by certified/return-receipt mail. The Open Records Act does not require the agency to use this method of mailing, and the agency does so at its own election. There is no support in the Act for the proposition that the cost of access to public records by mail can properly be driven up by the use of certified mail and the consequent increase in postage costs, however valid the agency’s reasons may be for electing to use certified mail. OAG 03-ORD-50.

It is entirely proper for the City to require prepayment of a reasonable copying charge that does not exceed the actual cost of duplication, not including staff costs, and to enforce a standard policy relative to assessment of those charges. Moreover, KRS 61.872 and KRS 61.874 contain no provision for the waiver of such fees for any party. OAG 03-ORD-57.

Discharge of the duties imposed by KRS 61.870 et seq. is required by law and is as much a legal obligation of a public agency as the provision of services to the public. If the Clerk is to act as the City’s official custodian of records, she must record her duties at such the same status as her other duties during regular business hours, including the duty to make copies at a cost not to exceed the actual cost of reproduction, but not including the cost of staff required. This is not a courtesy extended to the public by a public agency, but a legal duty imposed on the agency. OAG 03-ORD-83.

There is no error in the policies and procedures of the Luther Luckett Correctional Complex and the Department that require that copies of records requested pursuant to an open records request be paid for by check or money order and not by cash. OAG 03-ORD-174.

Under the Open Records Act, a correctional facility may properly require prepayment for copies of public records that are requested by inmates. OAG 03-ORD-189.

The agency may, as a matter of discretion, tailor its database to conform to the parameters of the request, and it does not recover staff costs as well as actual cost incurred. If, however, it exercises its discretion not to tailor its database to satisfy the request, it must produce a copy of that database in standard format, as defined at KRS 61.874(2)(b), and assess a copying charge equivalent to its actual costs, including medium and mechanical processing costs, but not including staff costs or the costs associated with redaction of statutorily protected fields of information. OAG 03-ORD-214.

By enacting KRS 237.110(8), the General Assembly expressly restricted disclosure of the public records requested to "hard copy form only." Since KRS 61.878(1)(j) exempts from disclosure public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, the Kentucky State Police properly denied the request to produce the requested list of names of concealed permit holders in electronic format. OAG 03-ORD-222.

Although the city may properly require the requester to prepay reasonable copying and postage charges as a condition to mailing him copies of these audit reports, it cannot impose a fee charge of ten dollars ($10) unless it can substantiate that this charge reflects the actual cost of reproduction, including the costs of the media and any mechanical processing costs incurred, but not including the cost of staff required. OAG 03-ORD-224.

KRS 61.874(4)(e) expressly authorizes public agencies to recover the cost of staff required to produce a copy of a public record, and, in this respect, markedly differs from KRS 61.874(3), expressly excluding "the cost of staff required." The statute fully supports imposition of an hourly rate for staff time expended in the assignment and research of an open records request, as well as the retrieval, redaction, and reproduction of responsive records, and ultimate review and disposition of that request. OAG 04-ORD-54.

Because the City failed to substantiate that its $.25 per square foot copying charge reflects the City’s actual costs, the $.50 copying charge imposed for the blueprint was excessive, and the City must, pursuant to KRS 61.874(1), recalculate its copying fee to reflect its actual costs of approximately $.60 per square foot or approximately $.50 per page (.80 per square foot by 6 square feet or opposed to $.25 per square foot by 6 square feet). To this, the City may add the $.37 per sheet commercial scanning charge for a total cost of no more than $.50 per copy. OAG 04-ORD-217.

Although an agency may properly exercise its discretion either affirmatively or negatively in deciding whether to provide online access to electronic records, having exercised that option affirmatively relative to one (1) or more requestsers, it must exercise the option affirmatively as to all requesters who are willing and able to abide by the terms and conditions of online access established by the agency. OAG 05-ORD-25.

Unless a city can substantiate that its actual costs exceed ten cents ($0.10) per page, it must recalculate its copying fee to conform to the requirements found at KRS 61.874(3); there is no support in existing legal authority for the fifty cents ($0.50) per page copying fee that the city currently imposes. OAG 05-ORD-70.

A letter prepared by a public agency employee, an attorney, to opposing counsel in a civil action is clearly a public record, notwithstanding the fact that it is maintained in an attorney case file originating from the representation of a public employee in their individual capacity. OAG 05-ORD-72.

3. In Camera Inspection.

Where a teacher's open records request to view videotape recordings of her own classroom was denied on grounds this would violate the Family Educational Rights and Privacy Act (FERPA), 20 USCS § 1232g, and the Kentucky Family Educational Rights and Privacy Act (KFERA), KRS 160.700 et seq., the Circuit Court properly denied her request to view the tapes in camera since this would have rendered the entire controversy void. Medley v. Bd. of Educ., 168 S.W.3d 398, 2004 Ky. App. LEXIS 305 (Ky. Ct. App. 2004), review denied, 2005 Ky. LEXIS 263 (Ky. 2005).

Source: Legal > / KY > Kentucky Statutes, Constitution, Court Rules & ALS, Combined / / Open Records > 61.874. Abstracts, memoranda, copies -- Agency may prescribe fee -- Use of nonexempt public records for commercial purposes -- Online access.

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