

COMMONWEALTH OF KENTUCKY
MCCRACKEN COUNTY FISCAL COURT
ORDINANCE NO. 2021-20

**AN ORDINANCE AMENDING THE McCRACKEN COUNTY
ADMINISTRATIVE CODE BY AMENDING THE COUNTY'S
OPEN RECORDS POLICY SET FORTH IN
SECTION 3.9 OF SAID ADMINISTRATIVE CODE
BY CHANGING THE NAME OF THE DESIGNATED
OPEN RECORDS CUSTODIAN**

WHEREAS, the McCracken County Fiscal Court realizes the value of clear and concise guidance regarding the implementation of all administrative affairs of the county and is committed to ensuring that all employees and county officials and officers are notified and educated upon such matters in order to facilitate the effective and efficient administration of county affairs; and

WHEREAS, Kentucky Revised Statutes Section 67.710 provides that the county judge executive shall be responsible for the proper administration of the affairs of the county and that one of his several statutory responsibilities is to prepare and submit to the fiscal court for approval an administrative code incorporating the details of the administrative procedure for the operation of the county; and

WHEREAS, the McCracken County Administrative Code was enacted in its present and complete form in June of 2021, via McCracken County Ordinance No. 2021-09, which repealed and replaced the previous Administrative Code and all amendments thereto; and

WHEREAS, the McCracken County Administrative Code was further amended in Ordinance 2021-15 wherein a new Section 3.9 was created and adopted which set forth the County's Open Records Policy and designated an Open Records Custodian; and

WHEREAS, the Fiscal Court's has been advised that the McCracken County Clerk has declined the County's designation of her as Open Records Custodian and the present amendment is a product of such denial.

**NOW THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF
MCCRACKEN COUNTY, COMMONWEALTH OF KENTUCKY, AS FOLLOWS:**

Section 1. Changing designation of Open Records Custodian

The presently existing version of the McCracken County Administrative Code, as enacted by McCracken County Ordinance No. 2021-09 and as amended in Ordinance 2021-15, and the County's Open Records Policy, are hereby amended by changing the County's designation of its Open Records Custodian, which amended Open Records Policy is attached as Exhibit A and incorporated by reference into the text of the present Ordinance pursuant to KRS 67.077(3) as if fully set forth herein.

Section 2. Severability.

If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

Section 3. Compliance with Open Meetings Laws.

The McCracken County Fiscal Court hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of said legislative body and that all deliberations of the Fiscal court, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

Section 4. Conflicts.

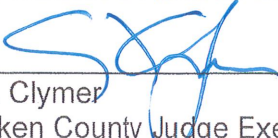
All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

Section 5. Effective Date.

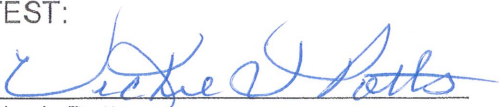
This Ordinance shall be read on two separate days, published pursuant to KRS Chapter 242, and become effective on 12-13-21.

MCCRACKEN COUNTY FISCAL COURT

BY: _____


Craig Z. Clymer
McCracken County Judge Executive

ATTEST:


Vickie J. Potts
McCracken County Fiscal Court Clerk

Introduced and publicly read on 11-22-21.
Publicly read and adopted on 12-13-21.
Recorded by County Clerk on 12-14-21.
Published by *The Paducah Sun* on 12-14-21.

EXHIBIT "A"

3.9 OPEN RECORDS POLICY (as amended 11-22-2021 by Ordinance 2021-20)

A. Purpose

Public policy requires the "free and open examination of public records." KRS 61.871. Accordingly, the McCracken County Fiscal Court must respond effectively and efficiently to records requests in a consistent and coordinated manner. Therefore, this Open Records Policy ("Policy") sets forth the standards for all County employees when a records request is received and ensures compliance with all applicable open records laws.

B. Policy

Records Custodian

The County shall designate an employee as its Records Custodian and as its Alternate Records Custodian. The Records Custodian and Alternate shall review the Kentucky Open Records Act, 200 KAR 1:020, and "Your Duty Under the Law – The Kentucky Open Records Act and Open Meetings Act," published by the County of the Attorney General. The Records Custodian shall ensure compliance with the Kentucky Open Records Act, 200 KAR 1:020, this Policy, and all relevant requests.

The County designates the following Records Custodian:

Office of McCracken County Judge Executive

300 Clarence Gaines Street
Paducah, KY 42003
(270) 444-4707

The alternate Records Custodian shall be designated by the Office of the Judge Executive in the event of absence.

Tracking Records Requests

Employees shall date-stamp any request to inspect or otherwise receive records upon receipt and deliver the request immediately to the Records Custodian and a copy to the County Attorney. If the Records Custodian is absent on the date of receipt, the request shall be delivered to an alternate records custodian. If an employee is uncertain whether a request qualifies as an Open Records Request or does not specifically invoke the Open Records Act but appears to request records, the employee shall immediately refer the request to the Records custodian for a preliminary determination. The Records Custodian shall assign a specific identification number to the request (e.g. 2019-003).

The Records Custodian shall keep a record of all open record requests received, the date received, the date of any initial response, and the date of a full and complete response.

Responding to Records Requests

All requests for copies or review of public records in the custody of the County must be made in writing. A request may be sent electronically to openrecords@mccrackencountyky.gov. Email requests for records should include a mailing address and electronic signature. Requests may also be mailed to the County or hand delivered to 300 Clarence Gaines Street, Paducah, Kentucky, from 8:30 a.m. to 4:30 p.m., Monday through Friday, each week, except holidays (Attn.: Records Custodian).

The Records Custodian shall provide a response to the records request that is postmarked or electronically transmitted within five (5) days as required by law. The Records Custodian shall promptly notify the requesting party if additional time is needed under KRS Chapter 61. When a response is delayed, the notice shall specifically indicate that additional time is required to process the request and explain the circumstances justifying additional processing time.

The Records Custodian shall determine whether the requester has reasonably described records within the possession of the County. If no such records are identified, the request may be denied on those grounds. However, if it is reasonably believed that another agency is in possession of the records described in the request, the Records Custodian shall refer the requester to the appropriate records custodian, providing both their name and contact information. If it is determined that the records are within the Office's possession, the Records Custodian shall gather them for processing. Records that are responsive shall be segregated from nonresponsive records (i.e., records that were not requested). The Records Custodian shall then examine responsive records to determine which records, if any, are exempt from disclosure and make appropriate redactions.

If the Records Custodian determines (after consultation with the County Attorney) that the records request should be denied in whole or in part, the Records Custodian shall notify the requester with an explanation for the decision to withhold any responsive records, citing the specific exemption in statute as the basis for withholding.

If the request places an unreasonable burden for producing public records, or if the Records Custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the Office, the Records Custodian may refuse to produce the records upon conferring with legal counsel prior to denying the request.

Record Production

When responsive records are to be transmitted electronically to the requester, there is no charge to the requester. However, if the responsive material is more than 8 megabytes ("MB"), the documents may be produced by alternate electronic media and mailed to the requester. Prior to mailing, the Records Custodian shall provide an invoice to the requester for the production and postage. The responsive material will be mailed upon receipt of payment.

When responsive records are to be mailed to the requester, the Records Custodian shall first provide an invoice to the requester for the production and postage. Printing costs are \$0.10 per page, and additional fees shall be justified on any invoice. Copies of photographs, maps, and other such records shall be furnished to any person requesting them on payment of a fee equal to the Office's actual cost to produce the copies. Estimated costs shall be communicated to the requester before costs are incurred. Cost of copying 50 pages or less will be waived. After the invoice is paid, the Records Custodian shall produce the responsive records to the requester.

If the requester wishes to personally inspect responsive records at the location where the records are maintained, the Records Custodian shall facilitate with the requester the scheduling of a convenient time and place for inspection during regular work hours. The Records Custodian, or an employee of the Office, shall be present and personally monitor the inspection.