

ORDINANCE NO. JO-096-2022

A JOINT ORDINANCE OF THE LAFAYETTE CITY COUNCIL AND THE LAFAYETTE PARISH COUNCIL ESTABLISHING A FEE SCHEDULE AND POLICY FOR THE PRODUCTION AND/OR TRANSMISSION OF ELECTRONIC COPIES OF PUBLIC RECORDS IN RESPONSE TO PUBLIC RECORDS REQUESTS

BE IT ORDAINED by the Lafayette City Council and the Lafayette Parish Council, that:

WHEREAS, the Lafayette City Council and the Lafayette Parish Council are committed to providing every person with open, convenient and no-cost or low-cost access to public records as required by the Louisiana Constitution and the Louisiana Public Records Law; and

WHEREAS, this policy is intended to maximize transparency, minimize barriers to access and establish fees for the public, press, etc.; and

WHEREAS, Louisiana Constitution Article XII, Section 3 provides that no person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City Council and the Lafayette Parish Council, that:

SECTION 1: All of the aforescribed "Whereas" clauses are adopted as part of this ordinance.

SECTION 2: Louisiana Public Records Law provides that:

- A. All records, including digital database records, are public records except as specifically provided by the Louisiana Constitution or the Louisiana Public Records law.
- B. A "public record" is all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including electronically stored information or information contained in databases or electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state, except as otherwise provided in this Chapter or the Constitution of Louisiana. • Act 770 of the 2022 Regular Session clarified that e-records are indeed public records.
- C. The "custodian" means the public official or head of any public body having custody or control of a public record, or a representative specifically authorized by him to respond to requests to inspect any such public records.

- D. The “public body” includes any branch, department, office, agency, board, commission, district, governing authority, political subdivision, or any committee, subcommittee, advisory board, or task force thereof including a public or quasi-public nonprofit corporation designated as an entity to perform a governmental or proprietary function, or an affiliate of a housing authority.
- E. The “custodian” shall present any public record to any person of the age of majority who so requests. The custodian shall make no inquiry of any person who applies for a public record, except an inquiry as to the age and identification of the person and may require the person to sign a register and shall not review, examine or scrutinize any copy, photograph, or memoranda in the possession of any such person, and shall extend to the person all reasonable comfort and facility for the full exercise of the right.
- F. The burden of proving that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian.
- G. No fee shall be charged to any person to examine or review any public records and no fee shall be charged for examination or review to determine if a record is subject to disclosure, except as may be determined by a court of competent jurisdiction.
- H. It shall be the duty of the custodian of such public records to provide copies to persons so requesting. The custodian may establish and collect reasonable fees for making copies of public records, which may include the transmission of electronic copies of public records. The custodian may request payment of fees in advance of production. Copies of records may be furnished without charge or at a reduced charge to indigent citizens of this state.
- I. In any case in which a record is requested and a question is raised by the custodian of the record as to whether it is a public record, such custodian shall within five days, exclusive of Saturdays, Sundays, and legal public holidays, of the receipt of the request, in writing for such record, notify in writing the person making such request of his determination and the reasons therefor. Such written notification shall contain a reference to the basis under law which the custodian has determined exempts a record, or any part thereof, from inspection, copying, or reproduction.
- J. If the public record applied for is immediately available, because of its not being in active use at the time of the application, the public record shall be immediately presented to the authorized person applying for it. If the public record applied for is not immediately available, because of it being in active use at the time of the application, the custodian shall promptly certify this in writing to the applicant, and in his certificate shall fix a day and hour within three days, exclusive of Saturdays, Sundays, and legal public holidays, for the exercise of the right granted by this Chapter.

SECTION 3: All of the foregoing items are established as the Bill of Rights of the public to access the public records of the City and Parish of Lafayette. Public records shall be available online to the maximum extent practicable.

- A. A position of a Central Records Clerk (CRC) shall be created and fall under the supervision of the Clerk of the Council, who shall receive public records requests and assist the public in obtaining responses. The CRC will work with staff and officials to respond to requests effectively and efficiently and to conduct regular training to help staff and officials self-identify public records to be made available in person and online. The CRC may make available online public records which have been cleared for release in response to a request, to avoid duplication of review and associated legal costs.
- B. No person shall be charged any fee for copies of public records except pursuant to this fee schedule adopted by ordinance.
- C. Any document immediately available for review shall be produced upon request without the necessity of scheduling a later appointment.
- D. A person who makes a valid public records request to inspect documents and at the time of inspection uses a personal hand-held scanner or mobile device to copy said public records shall not pay a fee for each page copied.
- E. All records produced in digital format for viewing shall be available immediately for copying by electronic means subject only to the cost of the digital storage device (i.e., USB drive, CD, etc.), with the exception of maps.
- F. The format of the production of the documents (print, digital, etc.) shall be the choice of the requestor so long as the document already exists in the possession of the custodian in that format.
- G. The custodian may request payment of fees in advance of production if the fees exceed \$25.00 per the schedule adopted by ordinance or if the requesting party has an unpaid balance due for a prior public record request.
- H. With regard to law enforcement records, an initial arrest report is a public record which shall set forth:
 - a. A narrative description of the alleged offense, including appropriate details thereof as determined by the law enforcement agency.
 - b. The name and identification of each person charged with or arrested for the alleged offense.
 - c. The time and date of the alleged offense.
 - d. The location of the alleged offense.
 - e. The property involved.
 - f. The vehicles involved.
 - g. The names of investigating officers.
 - h. Nothing herein shall be construed to require the disclosure of information which would reveal undercover or intelligence operations.

SECTION 4: The Fee Schedule and fees to be charged for copies of public records pursuant to this Section are intended to cover the cost of digital storage devices (i.e., USB drive, CD, etc.) and reproduction only and shall not include any overhead charges.

- A. The cost per page (letter or legal) for printed black/white documents, hard copies of documents, or records scanned for electronic production shall be \$0.50 per page for the first 50 pages and \$1.00 per page after 50 pages.
- B. Color copies will be \$1.00 per page.
- C. There shall be no fee above and beyond those fees noted in this Section for the electronic transmission of records.
- D. Copies of documents which are too large to be emailed (25 MB) or uploaded to a document sharing site, e.g., due to the media format or datasize, can be placed on a digital storage device (i.e., USB drive, CD, etc.) for a \$20 fee.
- E. The City shall not use media/digital devices provided by the requestor to comply with a public record request so as to avoid malicious threats to Lafayette Consolidated Government's devices and networks.
- F. At the direction of the requestor and to avoid burdensome costs for requests that may generate a large responsive production, the custodian/CRC shall work, in good faith, with the requestor to narrow the scope of the request.
- G. There shall be no charge for viewing a record or taking a photo of the record utilizing a personal handheld scanning device, such as a mobile phone.
- H. The fees shown are for costs associated with reproduction only and shall not include any overhead charges for employee time, redacting of documents or legal costs.
- I. LCG will not print hard copies of Maps for the public, due to costs. Requests for maps shall be handled as follows:
 - 1. Maps can be sent in electronic format (via email) at no cost. The requestor would be responsible for printing the map on their own. If the map is to be placed on a digital storage device (i.e., USB drive, CD, etc.), there will be a fee of \$20.
 - 2. The maps are available for in-person inspection at LCG. The requester, while inspecting, may use their handheld scanner or mobile devices to take photos of maps at no cost.

SECTION 5: This fee schedule shall be as reflected in any pertinent documents which are attached hereto and made a part hereof and filed in the Office of the Lafayette Clerk of the Council.

SECTION 6: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 7: This ordinance shall become effective upon signature of the Lafayette Mayor-President or the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature, whichever occurs first.

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CITY COUNCIL MEETING
AGENDA ITEM SUBMITTAL FORM

- 1) **JUSTIFICATION FOR REQUEST:** A joint ordinance of the Lafayette City Council and the Lafayette Parish Council establishing a fee schedule and policy for the production and/or transmission of electronic copies of public records in response to public records requests.

- 2) **ACTION REQUESTED:** Adoption of ordinance

- 3) **REQUESTED ACTION OF LAFAYETTE CITY COUNCIL:**
 - A) INTRODUCTION: 12-06-2022
 - B) FINAL ADOPTION: 12-20-2022

- 4) **DOCUMENTATION INCLUDED WITH THIS REQUEST:**
 - A) Ordinance
 - B) Submittal Form

- 5) **FISCAL IMPACT:**

_____ Fiscal Impact (Explain)

_____ **X** _____ No Fiscal Impact

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