

OPEN RECORDS

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OKOLONA FIRE PROTECTION DISTRICT **RULES GOVERNING INSPECTION OF PUBLIC RECORDS**

SECTION 1 – GENERAL

Consistent with the provisions of KRS 61.870 to 61.884, OKOLONA FIRE PROTECTION DISTRICT (hereinafter OFPD) public records, except as provided in Section 4 of these rules, shall be open for inspection by residents of the Commonwealth of Kentucky in accordance with procedures established by these rules. Further, should any part of these rules be deemed inconsistent with KRS 61.870 to 61.884 then KRS 61.870 to 61.884 shall control and the same is incorporated by reference as if fully set forth herein.

Pursuant to KRS 61.871, the basic policy of KRS 61.870 to 61.884 is that free and open examination of public records is in the public interest and the exceptions provided for by KRS 61.878 or otherwise provided by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others.

SECTION 2 – DEFINITIONS

The following terms shall have the meaning assigned herein:

- (1) "**Public record**" means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software or other documentation prepared, owned, used, in the possession of or retained by OFPD, but does not include any records owned by a private person or corporation in the possession of OFPD or a member or employee thereof, and not related to any function, activity, program or operation funded by OFPD.
- (2) "**Official custodian**" means the OFPD Fire Chief who by virtue of his position, is responsible for the maintenance, care and keeping of all OFPD public records.
- (3) "**Custodian**" means any OFPD member or employee having public records in his or her personal custody and control.
- (4) "**Public agency**" includes any committee, subcommittee, ad hoc committee or advisory committee established, created and controlled by OFPD.
- (5) "**Resident of the Commonwealth**" means:

- (a) An individual residing in the Commonwealth;

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- (b) A domestic business entity with a location in the Commonwealth;
- (c) A foreign business entity registered with the Secretary of State;
- (d) An individual that is employed and works at a location or locations within the Commonwealth;
- (e) An individual or business entity that owns real property within the Commonwealth;
- (f) Any individual or business entity that has been authorized to act on behalf of an individual or business entity defined in paragraphs (a) to (e) of this subsection; or
- (g) A news-gathering organization as defined in KRS 189.635(8)(b)1. a. to e.

SECTION 3 – PROCEDURE

(1) Residents of the Commonwealth of Kentucky may, on written application using Form OAG-01, June 2021 describing the records to the OFPD official custodian, inspect and make abstracts and memoranda of the contents of any OFPD public records, except those listed in Section 4 of these OFPD rules. Copies of any written material shall be furnished, on request, to Residents of the Commonwealth of Kentucky requesting them, free of charge so long as the copies do not exceed 25 pages. Should written material exceed 25 pages then the written material shall be furnished, on request, to any person requesting them, on payment of a fee of ten (10) cents per page for all pages for each record copies; copies of photographs, maps and other non-written material, and records stored in computer files or libraries, shall be furnished to any person requesting them on payment of a fee equal to the actual cost of OFPD producing the copies. Persons requesting copies of records shall be advised of the total actual cost of copies of written material, and the actual, if known, or approximate cost of producing copies of non-written material or of records stored in computer files or libraries before the copies are prepared. The fee shall be collected before the copies are handed or sent to the person requesting them. The fees established herein shall not be collected, for copies of records requested in the course of their employment by employees of OFPD, and shall be inapplicable in cases of documents printed for sale for which a fee is fixed by or pursuant to law or which are customarily distributed without charge.

(2) The inspection of public records of OFPD shall in all cases be made in the presence of an OFPD employee or member, on premises occupied by OFPD having custody of the records, during the usual office hours of OFPD. The OFPD official custodian shall be responsible for the assignment of OFPD employees, as a duty in addition to their usual duties, to assist persons applying to inspect the public records of OFPD and to ensure protection of the records against

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damage and disorganization.

SECTION 4 – EXEMPTIONS

The public records enumerated in subsections (1) through (12) of this section shall, except as provided herein, be subject to inspection only upon a valid United States or Commonwealth of Kentucky Certified Court Order. The exemptions under this section notwithstanding, nothing herein shall prohibit or limit the exchange of public records or the sharing of information between OFPD and other public agencies when the exchange of such records or sharing of such information will serve legitimate governmental needs or is necessary in the performance of legitimate governmental functions, nor shall the enumeration of any material herein prohibit disclosure of statistical information not readily identifiable of any person. If any public record contains material subject to public inspection only by Court Order, and other material not so excluded from public inspection, the custodian of the record shall, on application by any person for inspection of such record, segregate or remove the excluded material from the record and the non-excluded material shall then be available for inspection in accordance with the application for inspection. The OFPD official custodian of the records shall generally exclude from public inspection, except by an order of Court as provided in this section:

- (1) Public records containing information of a personal nature where public disclosure would constitute a clearly unwarranted invasion of personal privacy.
- (2) Records confidentially disclosed to OFPD compiled and maintained for: scientific research; in conjunction with an application for a loan; the administrative regulation of commercial enterprise, including mineral exploration records; unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential; or for the grant or review of a license to do business which if openly disclosed, would permit an unfair advantage to competitors of the subject enterprise, unless the disclosure or publication of such records is directed by law.
- (3) Public records pertaining to the prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocated within, or expanding within the Commonwealth. (Provided, however, that this exemption shall not include applications filed with OFPD for permits or licenses necessary to do business or to expand business operations within the state, except as provided in subsection (2) of this section).
- (4) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for OFPD relative to the acquisition of real property, until such time as all of the property has been acquired.

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- (5) Test questions, scoring keys and other examination data used to administer an examination for employment before the examination is given or if it is to be given again.
- (6) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of OFPD.
- (7) Preliminary recommendations and memoranda in which opinions are expressed or policies formulated or recommended.
- (8) All public records or information, the disclosure of which is prohibited by federal law or regulation or state law.
- (9) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under KRS 131.190;
- (10) i. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:
 - a. Criticality lists resulting from consequence assessments;
 - b. Vulnerability assessments;
 - c. Antiterrorism protective measures and plans;
 - d. Counterterrorism measures and plans;
 - e. Security and response needs assessments;
 - f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;
 - g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and

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h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.

ii. As used in this paragraph, “terrorist act” means a criminal act intended to:

- a. Intimidate or coerce a public agency or all or part of the civilian population;
- b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or
- c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

iii. On the same day that OFPD denies a request to inspect a public record for a reason identified in this paragraph, OFPD shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.

iv. Nothing in this paragraph shall affect the obligations of OFPD with respect to disclosure and availability of public records under state environmental, health, and safety programs.

v. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;

(11) Communications of a purely personal nature unrelated to any governmental function.

(12) Public records or information, the disclosure of which is prohibited or restricted or otherwise made confidential by the statutes of this Commonwealth. **THIS INCLUDES RECORDS THAT ARE SUBJECT TO THE ATTORNEY-CLIENT PRIVILEGE.**

SECTION 5 - APPLICATION FOR INSPECTION OF PUBLIC RECORDS

Commonwealth of Kentucky residents requesting to inspect OFPD public records shall file a written application describing the records requested to be inspected with the OFPD official custodian of the records. Written application shall only be accepted in legible form in hand or type written English language words on Form OAG-1, June 2021 ‘Request to Inspect Open Records’ which is available on OFPD’s website at <http://www.okolonafire.org/> The written application shall be: 1. Hand delivered to 8501 Preston Highway Louisville, KY 40219; 2. Mailed to 8501 Preston Highway Louisville, KY 40219; 3. Sent via facsimile to 502.966.8388; or 4. Sent via email to the Attention of Chief Mark Little at open.records@okolonafire.org.

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SECTION 6 - OFPD RESPONSIBILITY

(1) OFPD shall display a copy of these rules and regulations in a prominent location in its principal fire house to which the general public has access as well as post these rules and regulations on the OFPD official website.

(2) The official custodian of records requested for public inspection shall promptly determine the availability of such records for inspection; if it is determined that the records are not available for inspection, the applicant will be notified in writing, not later than five (5) working days after the date of receipt of the written application for inspection of the records of the reason or reasons why the records are not available for inspection. If the record sought is in active use, in storage or not otherwise available, the applicant will be advised of the reason for the delay in providing access to the record and of the earliest practicable date, time and place that the record will be available for inspection. If an application for inspection of a record is denied because it is of a kind, or contains material enumerated in Section 4 of this rule, the official custodian shall advise the applicant in writing of the reason for denial, in whole or in part, and shall include a statement of the specific exception contained in Section 4 of this rule, and in KRS 61.878, authorizing denial of the application and an explanation of how the exception applies to the record withheld.

