

CITY OF BRENTWOOD PUBLIC RECORDS POLICY

The Board of Commissioners of the City of Brentwood (the "City") hereby adopts the following Public Records Policy, pursuant to Tenn. Code Ann. § 10-7-503(g) and *Brentwood Municipal Code* § 2-2. The purpose of this Policy is to provide economical and efficient access to public records as provided under the Tennessee Public Records Act ("TPRA") in Tenn. Code Ann. § 10-7-501, et seq.

The TPRA provides that all state, county and municipal records shall be open for personal inspection at all times during business hours by any citizen of this state. Those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. Accordingly, the public records of the City are presumed to be open for inspection unless otherwise provided by law.

Personnel of the City shall provide access and assistance in a timely and efficient manner to Tennessee citizens requesting to view or receive copies of public records. No provisions of this Policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the City, shall be protected as provided by current law. Concerns about this Policy should be addressed to the City Recorder or to the Tennessee Office of Open Records Counsel ("OORC").

This Policy shall be posted online at the City's website, www.brentwoodtn.gov. This Policy shall be applied consistently throughout the City's departments, but may be supplemented as necessary in departments which maintain records of a sensitive or specialized nature for which additional provisions may be necessary.

I. Definitions:

- A. Records custodian: An employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record. The City Recorder is the records custodian in regard to records for which the City Recorder is assigned custody under the City's Charter. For all other records, if no person is otherwise designated by statute or the *Brentwood Municipal Code*, the records custodian is the department head for the department maintaining the records or the department head's designee.
- B. Public records: All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by the City or any of its departments. See Tenn. Code Ann. § 10-7-503(a)(1)(A).
- C. Requestor: A person seeking access to a public record, whether it is for inspection or duplication.

II. Public Records Request Coordinator

- A. Pursuant to Tenn. Code Ann. § 10-7-503(g)(4), the City Recorder is designated as the City's Public Records Request Coordinator for records requests from persons other than media representatives. The City Recorder's address and contact information is as follows:

City Recorder
5211 Maryland Way
P. O. Box 788
Brentwood, TN 37024-0788
(615) 371-0060

An option to contact the City Recorder by e-mail shall be made available through the City's website (www.brentwood.gov).

- B. The City's Community Relations Director is designated as the City's Public Records Request Coordinator for records requests from media representatives. The Community Relations Director's address and contact information is as follows:

Community Relations Director
5211 Maryland Way
P. O. Box 788
Brentwood, TN 37024-0788
(615) 371-0060

An option to contact the Community Relations Director by e-mail shall be made available through the City's website (www.brentwood.gov).

III. Requesting Access to Public Records

- A. Public record requests from Tennessee citizens other than media representatives may be directed to the City Recorder, who shall route the request to the appropriate records custodian (if other than the City Recorder). Alternatively, these record requests may be submitted directly to the appropriate records custodian (if other than the City Recorder).
- B. Public record requests from the media should be directed to the City's Community Relations Director.
- C. Persons requesting access to or copies of public records must describe the records with specificity so that the records may be located and made available for public inspection or duplication.
- D. Requests for inspection of public records may be made orally, either by phone or in person. Requests for inspection may also be submitted in writing by mail, by e-mail or in person. When the requestor wishes only to inspect records, but the requested records are not immediately available, the City Recorder, Community Relations Director or custodian of the requested records may provide a copy of the Public Records Request Form included with this Policy. If the requestor does not wish to complete the form or is unable to do so, a City employee will complete the form with the information provided by the requesting party. The requestor must provide a mailing or email address for receiving any written communication required under the TPRA.
- E. Requests for copies, or requests for both inspection and copies, must be submitted in writing. The requestor may use the Public Records Request Form included with this Policy, or may submit a letter or other written request, provided the request includes the same information required in the Public Records Request Form. The request may be submitted by mail, by e-mail or in person.
- F. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or alternative acceptable form of ID) is required as a condition to inspect or receive copies of

public records; provided, however, this requirement may be waived if the City Recorder or other records custodian responding to a request knows that the requestor is a Tennessee citizen. Additionally, the Community Relations Director may waive the requirement for proof of Tennessee citizenship for media representatives.

IV. Responding to Public Records Requests

A. Initial Determination

The City Recorder, Community Relations Director or records custodian receiving a public record request shall review the request and make an initial determination of the following:

1. If the requestor provided evidence of Tennessee citizenship (unless waived in accordance with this Policy);
2. If the records requested are described with sufficient specificity to identify them; and
3. If the City is the custodian of the records.

B. Acknowledgement of Request; Response

The City Recorder, Community Relations Director or a records custodian receiving a public record request shall acknowledge receipt of the request and take any of the following appropriate actions:

1. Advise the requestor of this Policy and the elections made regarding:
 - a. Proof of Tennessee citizenship;
 - b. Form(s) required for copies;
 - c. Fees (and labor threshold and waivers, if applicable); and
 - d. Aggregation of multiple or frequent requests.
2. Deny the request in writing, if there are appropriate grounds for denial, as provided in Section IV.C.3 below.
3. If appropriate, contact the requestor to determine if the request can be narrowed.
4. Forward the records request to the appropriate records custodian in the City.
5. If requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and contact information for that entity if known.

C. Records Available Online

Many of the City's public records, including meeting agendas, minutes and financial reports, are available on the City's website (www.brentwoodtn.gov). If requested records are available on the City's website, the City Recorder, Community Relations Director or records custodian responding to a public record request will advise the requestor accordingly.

D. Production of Records; Denials

1. Upon receiving a public record request, the City shall, if practicable, promptly make requested public records available in accordance with Tenn. Code Ann. § 10-7-503. If the employee responding to the request needs assistance to determine if an applicable exemption applies, the employee may consult with the City Attorney or the OORC.
2. Within seven (7) business days from receipt of a public record request, the City shall advise the requestor if it is not practicable to promptly provide the requested records because additional time is necessary to:
 - a. Determine whether the requested records exist;
 - b. To search for, retrieve, or otherwise gain access to records;
 - c. To determine whether the requested records are open records;
 - d. To redact records; or
 - e. For other similar reasons.
3. If the City denies a public record request, the employee responding to the request shall deny the request in writing. Denial of a request must be based on appropriate grounds, such as one of the following:
 - a. The requestor is not, or has not presented evidence of being, a Tennessee citizen.
 - b. The request lacks specificity. (The written denial may include an offer to assist in clarification.)
 - c. An exemption makes the record not subject to disclosure under the TPRA. (Provide the exemption in the written denial.)
 - d. The City is not the custodian of the requested records.
 - e. The records do not exist.
 - f. The requestor has made two (2) or more requests to view a public record within a six-month period and, for each request, the requestor failed to view the public record within fifteen (15) business days of receiving notification of the record's availability for viewing. In such cases, the City may deny any public records request from the same requestor for a period of six (6) months from the date of the second request to view a public record unless the City determines failure to view the public record was for good cause. (See Tenn. Code Ann. § 10-7-503(a)(7)(A)(viii)(a)).
 - g. The requestor has made a request for copies of a public record and, after copies were produced, the requestor failed to pay the City the cost for producing such copies. In such cases, the City may deny any public records request from the same requestor until the requestor pays for such copies; provided that the requestor was given an estimated cost for producing the copies in accordance with Section VII.B. of this Policy and the requestor agreed

to pay the estimated cost for such copies. (See Tenn. Code Ann. § 10-7-503(a)(7)(A)(viii)(b)).

4. If a City employee responding to a public record request reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the employee shall notify the requestor that production of the records will be in segments and that the records will be provided as expeditiously as practicable. If appropriate, the employee should contact the requestor to discuss possibilities for narrowing the request.
5. If a City employee responding to a public record request discovers records responsive to the request were omitted, the records custodian should contact the requestor concerning the omission and produce the records as quickly as practicable.
6. The Public Records Request Response Form included with this Policy shall be used for all responses by the City to a public record request when it is not practicable to promptly provide the requested records; or in the alternative, the employee responding to the request may provide a letter or other document to the requestor that includes the same information that would be provided on the Public Records Request Response Form.

E. Confidential Records; Redaction

1. To the extent that certain records have been designated by law as confidential, such confidential records are to be withheld from persons who have not been authorized to view them.
2. If a record contains confidential information or information that is not open for public inspection but the record is otherwise open to the public, the City employee responding to the request shall prepare a redacted copy prior to providing access. If questions arise concerning redactions, the employee should coordinate with the City Attorney or other appropriate parties regarding review and redaction of records.
3. Whenever a redacted record is provided, the City employee responding to the request should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

F. Protection of Records

All City personnel shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. If the public records requested are fragile due to age or other conditions, or if the records custodian determines that copying of the records may cause damage to the original records, the records custodian may deny a request for copies but shall offer to make an appointment for inspection of the records

V. Inspection of Records

- A. There shall be no charge for inspection of open public records.
- B. The location for inspection of records within the offices of the City should be determined by the City Recorder, Community Relations Director or the records custodian responding to the public records request.

- C. All inspections of records must be performed under the supervision of the City Recorder, Community Relations Director, the custodian of the records to be inspected or such person's designee.
- D. Under reasonable circumstances, the City employee responding to a public records request may require an appointment for inspection or may require inspection of records at an alternate location.

VI. Copies of Records

- A. The City shall promptly respond to a request for copies of public records in the most economical and efficient manner practicable.
- B. Copies will be available for pickup at a location specified by the City employee responding to the request.
- C. Alternatively, upon payment for postage or delivery costs, copies will be delivered by the United States Postal Service or other delivery service to the address provided by the requestor.
- D. All copying of public records must be performed by employees of the City, or, in the event that City personnel are unable to copy the records, by an entity or person designated by the records custodian. A requestor will not be allowed to make copies of records with personal equipment. A requestor may take photographs of public records with a personal camera or other device if the records custodian determines that the photography is unlikely to cause damage to the records.

VII. Fees and Charges and Procedures for Billing and Payment

- A. Fees and charges for copies of public records should not be used to hinder access to public records.
- B. Fees for copies are as shown on the Schedule of Fees for Copies of City Records included with this Policy. With the approval of the City Manager, fees may be waived if it is determined that such a waiver is in the best interest of the City.
- C. Unless the right to an estimate is waived by the requestor, the City shall provide requestors with an estimate of the charges prior to producing copies of records. The City may require pre-payment of such charges before producing requested records.
- D. Aggregation of Frequent and Multiple Requests
 - 1. In accordance with the Frequent and Multiple Request Policy promulgated by the OORC, the City will aggregate record requests when more than four (4) requests are received by the City within a calendar month (either from a single individual or a group of individuals deemed working in concert). The City shall charge a fee for all labor that is reasonably necessary to produce copies of the aggregated records after informing the requestor that the aggregation limit has been met. A request for copies of records may not be broken down into multiple requests in order to qualify for free labor charges or waiver of fees.
 - 2. The City Recorder is responsible for making the determination that a group of individuals is working in concert. The City Recorder or other employee responding to a record request

must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.

3. Routinely released and readily accessible records will be excluded from aggregation.

VI. Amendments to Policy

The City Manager may approve minor amendments to this Policy and the forms included with this Policy if such amendments are in keeping with the TPRA, the Brentwood Municipal Code and the intent of this Policy. All other amendments must be approved by the Board of Commissioners.

PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access open public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist.

To: **City of Brentwood**

From: Name: _____

 Address: _____

 E-mail (if requestor prefers response by e-mail): _____

Is the requestor a Tennessee citizen? Yes No

Request: Inspection (The TPRA does not permit fees or require a written request for inspection only¹.)

Copy/Duplicate

If costs for copies are assessed, the requestor has a right to receive an estimate. Do you wish to waive your right to an estimate and agree to pay copying and duplication costs in an amount not to exceed \$_____? If so, initial here:_____.

Delivery preference: On-Site Pick-Up USPS First-Class Mail
 Electronic Other: _____

Records Requested:

Provide a detailed description of the record(s) requested, including: (1) type of record; (2) timeframe or dates for the records sought; and (3) subject matter or key words related to the records. Under the TPRA, record requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your record request must provide enough detail to enable the person responding to the request to identify the specific records you are seeking. Additional pages may be used.

Signature of Requestor and Date Submitted

City Use:
Received by: _____ Date: _____
Proof of Tennessee citizenship verified: Yes No

¹ Note: Tenn. Code Ann. § 10-7-504(a)(20)(C) permits charging for redaction of private records of a utility.

**CITY OF BRENTWOOD
PUBLIC RECORD REQUEST RESPONSE FORM**

[Date]

[Requestor's Name and Contact Information]:

In response to your records request received on [Date Request Received], our office is taking the action(s)¹ indicated below:

The public record(s) responsive to your request will be made available for inspection at: Location: _____ Date & Time: _____

Copies of public record(s) responsive to your request are:

Attached;

Available for pickup at the following location:

_____ ; or

Being delivered via:

USPS First-Class Mail

Electronically

Other: _____.

Your request is denied on the following grounds:

Your request was not sufficiently detailed to enable identification of the specific requested record(s). You need to provide additional information to identify the requested record(s).

No such record(s) exists or this office does not maintain record(s) responsive to your request.

No proof of Tennessee citizenship was presented with your request. Your request will be reconsidered upon presentation of an adequate form of identification.

You are not a Tennessee citizen.

You have not paid the estimated copying/production fees.

The following state, federal or other applicable law prohibits disclosure of the requested records:

It is not practicable for the records you requested to be made promptly available for inspection and/or copying because:

It has not yet been determined that records responsive to your request exist; or

Our office is still in the process of retrieving, reviewing, and/or redacting the requested records.

The time reasonably necessary to produce the record(s) or information and/or to make a determination of a proper response to your request is: _____.

If you have any additional questions regarding your record request, please contact me.

Sincerely,

Name, Title, and Contact Information:

¹ If all requested records do not have the same response, so indicate.

City of Brentwood

Schedule of Fees for Copies of City Records

Pursuant to Section 2-2¹ of the Brentwood Municipal Code, charges for copies of records will be assessed as follows:

- (1) Standard 8 ½ x 11 or 8 ½ x 14 black and white copy - \$.15 per page.
- (2) Standard 8 ½ x 11 or 8 ½ x 14 color copy - \$.50 per page.
- (3) Maps, plats and other large format documents in sizes other than 8 ½ x 11 or 8 ½ X 14 - \$2.00 per square foot.
- (4) CD-ROM and DVD copies - \$1.00 each.
- (5) Charges for copies of all other materials will be assessed at actual costs to the city.
- (6) No charge will be imposed for documents sent by electronic mail or other electronic means, unless the time required to search, redact and provide the documents exceeds one hour, in which case labor charges will be assessed.
- (7) The requestor shall pay any charges assessed by another entity that has possession of or is employed to reproduce the requested records.
- (8) Cost of postage or other shipping charges and packaging materials will be added if documents are mailed or shipped.
- (9) Charges will be waived if the total cost will be less than \$1.00, provided that fees associated with aggregated records requests will not be waived.

In addition to other charges assessed for copies of documents, the cost of employee labor in excess of one hour for research, retrieval, redaction and duplication will be charged to the requestor. Labor charges shall be based on the employee's hourly wage. Requests requiring one hour or less of employee labor for research, retrieval, redaction and duplication will not result in an assessment of labor charges to the requestor. For a response to a request involving more than one employee, labor charges will be assessed based on the following formula:

- (1) In calculating the charge for labor, the records custodian shall determine the number of hours each employee spent responding to the request.
- (2) The records custodian shall then subtract the one hour threshold from the number of hours the highest paid employee(s) spent responding to the request.
- (3) The records custodian shall then multiply the total number of hours to be charged for the labor of each employee by that employee's hourly wage.
- (4) The records custodian shall add together the total charges for all employees involved in responding to the request. The sum will be the total amount of labor to be charged.

¹ As amended by Ordinance 2017-15, effective July 2, 2017.