

ORDINANCE NO. 18 - 2020

AN ORDINANCE OF THE CITY OF BEREA, KENTUCKY, REVISING THE CODE OF ORDINANCES BY ADDING SECTIONS 26.010-26.011 PROVIDING FOR REVISED RULES AND REGULATIONS RELATING TO THE REQUEST FOR OPEN RECORDS, AND PROVIDING FOR OFFICIAL CUSTODIANS OF THE PUBLIC RECORDS OF THE CITY OF BEREA.

WHEREAS, the City Council of the City of Berea, Kentucky, desires to reiterate the City's compliance with the Open Records statutes, KRS 61.870 to KRS 61.991; and

WHEREAS, the City has heretofore had rules and regulations designating the official custodian of City records as the City Clerk; and

WHEREAS, the City Council deems it necessary and expedient to provide for a division of custodial responsibilities among City officers and employees;

NOW, THEREFORE, be it ordained by the City Council of the City of Berea, Kentucky, that the Code of Ordinances of the City of Berea be revised as follows:

SECTION I

That the Code of Ordinances is hereby amended to add Article II of Section 26, City Policies, Section 26.010-26.011, and such sections shall read as follows:

ARTICLE II. OPEN RECORDS

§ 26.010 OFFICIAL CUSTODIANS; OFFICE HOURS

(A) The Office of City Clerk is the official custodian of the records of the City of Berea, other than the records of the Police Department and Human Resources. The Office of the Police Chief is the official custodian of the records of the Police Department of the City of Berea, and the Human Resources Officer of the City of Berea is the official custodian of personnel records for City officers and employees. The City of Berea hereby adheres to the provisions of the Kentucky Open Records Act as provided in KRS 61.870 to 61.991.

(B) For Open Record purposes, the regular office hours and work days of the City are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding City recognized holidays.

§ 26.011 REQUEST FOR RECORDS INSPECTION

(A) The principal office of the City is located at 212 Chestnut Street, Berea, Kentucky 40403. Any request for public records inspection may be made in person at the office of the appropriate custodian at this address.

(B) The title and address of the official custodians of the records is City Clerk, 212 Chestnut Street, Berea, Kentucky 40403; Berea Police Chief, 212 Chestnut Street, Berea, Kentucky 40403, and Berea Human Resources Officer, 212 Chestnut Street, Berea, Kentucky 40403.

(C) Any person shall have the right to inspect nonexempt public records during the regular office hours.

(D) Facilities available to each person for inspection of public records will consist at a minimum of a chair and top space of a desk or table in the City Hall.

(E) If the application places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records. However, refusal under this section must be sustained by clear and convincing evidence.

(F) Upon inspection, the applicant shall have the right to make abstracts of the public records and memoranda thereof, and to obtain copies of all written public records not exempted by the provisions of KRS 61.878. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee. If the applicant desires copies of public records other than written records, the custodian of the records shall permit the applicant to duplicate the records; however, the custodian may ensure that duplication will not damage or alter the records.

(G) The fee for the agency to make copies of nonexempt public records shall be \$0.10 per page which is the actual cost thereof, not including the cost of staff required.

(H) No official of the agency shall willfully conceal or destroy any record with the intent to violate the provisions of the Act and these rules and regulations.

(I) The minutes of action taken at every meeting of the agency, setting forth an accurate record of votes and actions at the meetings, shall be promptly recorded and these records shall be open to public inspection at reasonable times, no later than immediately following the next meeting of the body.

(J) The provisions of KRS 61.872 shall govern the limitations on the right to inspect public records, and the provisions of KRS 61.878 shall exempt certain public records from inspection except on order of a court of competent jurisdiction.

(K) The provisions of KRS 61.880 shall govern the denial of inspection of public records, and specifically as follows:

1. Upon receipt of a written or in-person request for records made under KRS 61.870 to 61.884, the Official Custodian shall determine within three (3) days, excepting Saturdays, Sundays, and City recognized holidays, whether to comply with the request and shall notify in writing the person making the request, within the three (3) day period, of his or her decision. If the Official Custodian denies the request, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or the City's legal counsel, and it shall constitute final agency action.
2. If a complaining party wishes the Attorney General to review the City's denial of a request to inspect a public record, the complaining party shall forward to the Attorney General a copy of the written request and a copy of the written response denying inspection. The Attorney General shall review the request and denial and process the review pursuant to KRS 61.880.

SECTION III

All ordinances or parts of ordinances in conflict herewith are repealed. This ordinance shall be published according to law.

FIRST READING: October 20, 2020.

SECOND READING AND ENACTMENT: November 10, 2020.

APPROVED BY:

Bruce Fraley, Mayor

ATTEST:

Clerk of the City Council

Published this 11 day of November, 2020.

PREPARED BY:

Corporate Counsel