

ORDINANCE NO. 23 - 2021

AN ORDINANCE OF THE CITY OF BEREA, KENTUCKY, REVISING THE CODE OF ORDINANCES BY REVISING SECTION 26.011 PROVIDING FOR A FIVE-DAY PERIOD TO COMPLY WITH AN OPEN RECORD REQUEST RATHER THAN A THREE-DAY PERIOD, BASED ON A STATUTORY REVISION

WHEREAS, in its 2021 session, the Kentucky General Assembly revised KRS 61.880 in House Bill 312, Section 5 (Chapter 160 of 2021 Ky. Acts), to extend the time period that a public agency must respond to an open record request from three (3) days to five (5) days; and

WHEREAS, the current Berea City Code in Section 26.011 must be revised to be in conformity with the statutory revision; and

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 by revising Section 26.011 so that such section shall read as follows:

§ 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)~~ five (5) 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)~~ five (5) 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 II

All ordinances or parts of ordinances in conflict herewith are repealed.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

FIRST READING: August 17, 2021.

SECOND READING AND ENACTMENT: September 7, 2021.

APPROVED BY:

Bruce Fraley, Mayor

ATTEST:

Clerk of the City Council

Published this 8 day of September, 2021.

PREPARED BY:

Corporate Counsel