

**RESOLUTION NO. 17-1193**

**A RESOLUTION BY THE BOARD OF COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE EXISTING PUBLIC RECORDS POLICY**

**WHEREAS**, pursuant to Tenn. Code Ann. § 10-7-503(g), every governmental entity subject to the Tennessee Public Records Act (“TPRA”) (Tenn. Code Ann. § 10-7-501 et seq.), must establish a written public records policy properly adopted by the appropriate governing authority by July 1, 2017; and

**WHEREAS**, by Resolution No. 17-1156, adopted by the City Commission on April 4, 2017, the City adopted a legally conforming Public Records Policy; and

**WHEREAS**, the policy then adopted and hereby amended shall not impose requirements on those persons requesting records that are more burdensome than state or, in certain limited instances, controlling Federal law, permit or require; and

**WHEREAS**, the City Commission of the City of Red Bank, Tennessee, desires to comply with recent judicial clarifications in state and federal law as pertains to disclosure of public records, including but not limited to Tenn. Code Ann. §10-7-503, et seq., Tenn. Code Ann. §55-25-101, et seq., and 18 USC §2721, et seq.

**NOW THEREFORE BE IT RESOLVED** by the City Commission of the City of Red Bank, Tennessee, that the existing Public Records Policy adopted by Resolution No. 17-1156 is repealed and following Public Records Policy for the City of Red Bank is hereby adopted in its place and stead to provide economical and efficient access to public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.

**SECTION 1.** The following policy is hereby adopted as the Public Records Policy for the City of Red Bank:

**PUBLIC RECORDS POLICY FOR THE  
CITY OF RED BANK, TENNESSEE**

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for the City of Red Bank is hereby adopted by the Board of Commissioners 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 state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law or controlling and pre-empting Federal law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the City of Red Bank are presumed to be open for inspection unless otherwise provided by law.

Personnel of the City of Red Bank shall timely and efficiently provide access and assistance to persons 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 City of Red Bank, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for City of Red Bank or to the Tennessee Office of Open Records Counsel (“OORC”).

This Policy is available for inspection and duplication in the office of the City Recorder. This Policy is posted online at [www.redbanktn.gov](http://www.redbanktn.gov). This Policy shall be reviewed every two years.

This Policy shall be applied consistently throughout the various offices, departments, and/or divisions of the City of Red Bank.

**I. Definitions:**

A. Records Custodian: The office, official or employee lawfully responsible for the direct

custody and care of a public record. See Tenn. Code Ann. § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.

- 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 any governmental agency. See Tenn. Code Ann. § 10-7-503(a)(1)(A).
- C. Public Records Request Coordinator: The individual, or individuals, designated in Section III, A.3 of this Policy who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPRA. See Tenn. Code Ann. § 10-7-503(a)(1)(B). The Public Records Request Coordinator may also be a records custodian.
- D. Requestor: A person seeking access to a public record, whether it is for inspection or duplication.

## II. Requesting Access to Public Records

- A. Public record requests shall be made to the Public Records Request Coordinator ("PRRC") or his/her designee in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- B. Requests for inspection only cannot be required to be made in writing, unless and except in cases where the request is for inspection of a motor vehicle traffic accident report as to which personally identifying information has not been redacted. In such cases the requestor shall provide documentation of permission to view information contained in such reports (i.e., a driver, passenger, insurer or legal representative already possessing the name, address or report number of a driver or passenger involved). Requests to inspect motor vehicle traffic accident reports with personally identifying information unredacted shall be made by utilizing the attached Unredacted Motor Vehicle Accident Report Request Form (Exhibit A), and request shall be accompanied by proper photo identification including the requestor's address. In all requests for inspection, the requestor shall provide a mailing address or email address for providing written communication required under the TPRA.
- C. Requests for inspection may be made orally or in writing using the attached Public Records Request Form at 3117 Dayton Boulevard, Red Bank, TN 37415 or by phone at (423) 877-1103.
- D. Requests for copies, or requests for inspection and copies, shall be made in person using the attached Public Records Request Form at 3117 Dayton Boulevard, Red Bank, TN 37415.
- E. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license is required as a condition to inspect or receive copies of public records.

## III. Responding to Public Records Requests

- A. Public Record Request Coordinator
  - 1. The PRRC shall review public record requests and make an initial determination of the following:
    - a. If the requestor provided evidence of Tennessee citizenship;
    - b. If the records requested are described with sufficient specificity to identify them; and
    - c. If the Governmental Entity is the custodian of the records.
  - 2. The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
    - a. Advise the requestor of this Policy and the elections made regarding:
      - i. Proof of Tennessee citizenship;
      - ii. Form(s) required for copies;

- iii. Fees (and labor threshold and waivers, if applicable); and
  - iv. Aggregation of multiple or frequent requests.
- b. If appropriate, deny the request in writing, providing the appropriate grounds such as one of the following:
    - i. The requestor is not, or has not presented evidence of being, a Tennessee citizen.
    - ii. The request lacks specificity. (Offer to assist in clarification)
    - iii. An exemption makes the record not subject to disclosure under the TPRA. (Provide the exemption in written denial)
    - iv. The Governmental Entity is not the custodian of the requested records.
    - v. The records do not exist.
  - c. If appropriate, contact the requestor to see if the request can be narrowed.
  - d. Forward the records request to the appropriate records custodian in the City of Red Bank.
  - e. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity if known.
3. The designated PRRC is:
- a. Name or title: Ruth Rohen, City Recorder
  - b. Contact information: 3117 Dayton Boulevard  
Red Bank, Tennessee 37415  
(423) 877-1103 office  
(413) 877-1102 fax  
rrohen@redbanktn.gov
4. The PRRC shall report to the City Commission and the City Manager on an annual basis about the City's compliance with the TPRA pursuant to this policy and shall make recommendations, if any, for improvement or changes to this Policy.

## B. Records Custodian

1. Upon receiving a public records request, a records custodian shall, if practicable, promptly make requested public records available in accordance with Tenn. Code Ann. § 10-7-503. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, counsel, or the OORC.
2. If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then a records custodian shall, within seven (7) business days from the records custodian's receipt of the request, send the requestor a completed Public Records Request Response Form which is attached as Public Records Request Response Form.
3. If a records custodian denies a public record request, he or she shall deny the request in writing as provided in Section III.A.2.b using the Public Records Request Response Form.
4. If a records custodian 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 records custodian shall use the Public Records Request Response Form to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the

request can be narrowed.

5. If a records custodian discovers records responsive to a records request were omitted, the records custodian should send notice to the requestor at the address provided by the requestor, of the omission and produce the records as soon as is reasonably practicable under all the circumstances then existing.

### C. Redaction

1. If a record contains confidential information or information that is not open for public inspection and/or, as in the case of motor vehicle accident (MVA) reports as to which personally identifying information disclosure is limited/restricted by the provisions of Tenn. Code Ann. §55-25-101, et seq., Tenn. Code Ann. §10-7-503, et seq. and/or 18 USC 2721, et seq. in the absence of certain written assurances from the person requesting the MVA report(s), the records custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the records custodian should coordinate with the City Attorney or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with the Office of Attorney General and Reporter.
2. Whenever a redacted record is provided, a records custodian should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

## IV. 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 of Red Bank will be determined from time to time by either the PRRC or the custodian of the requested records.
- C. Under reasonable circumstances, the PRRC may require an appointment for inspection or may require inspection of records at an alternate location.

## V. Copies of Records

- A. A records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.
- B. Copies will be available for pickup at a location specified by the records custodian at City Hall, 3117 Dayton Boulevard, Red Bank, Tennessee 37415.
- C. Upon payment for postage or delivery charge, copies will be delivered to the requestor's Home address by the United States Postal Service (USPS), Federal Express (FedEx), or United Parcel Service (UPS).
- D. A requestor will not be allowed to make copies of records with personal equipment. Under no circumstances, will the City of Red Bank permit requestors to make their own copies, photographic images, or provide their own storage devices.

## VI. 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. No charges will be assessed for copies and duplicates unless copies are five (5) pages or more, or unless research time exceeds one hour regardless of the number of copies requested.
- B. Records custodians shall provide requestors with an itemized estimate of the charges using the attached Public Records Request Response Form prior to producing copies of records and will require pre-payment of such charges before producing requested records.
- C. When fees for copies and labor do not exceed \$ 3.00, the fees may be waived. Requests for waivers for fees above \$ 3.00 must be presented to the City Manager, who is authorized to determine if such waiver is in the best interest of the City of Red Bank and for the public good. Fees associated with aggregated records requests will not be waived.

D. Fees and charges for copies are as follows:

1. \$0.15 per page for letter- and legal-size black and white copies.
2. \$0.50 per page for letter- and legal-size color copies.
3. Other: Electronic media, postage and shipping, etc.
4. Labor when time exceeds 1 hour.
5. If an outside vendor is used, the actual costs assessed by the vendor.

E. No duplication costs will be charged for requests for less than four (4) pages.

F. Payment is to be made in cash or personal check payable to the City of Red Bank presented to the records custodian.

G. Payment in advance will be required.

I. Aggregation of Frequent and Multiple Requests

1. The City of Red Bank will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert).
2. Aggregated:
  - a. The level at which records requests will be aggregated is by department.
  - b. The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian 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 City Manager.
  - c. Routinely released and readily accessible records excluded from aggregation include, but are not limited to: Commission Meeting Minutes, City Ordinances and City Resolutions.

**SECTION 2.** Any resolutions, policies, or parts thereof in conflict with the provisions of this resolution are hereby repealed to the extent of such conflict only as pertaining to the subject matter of this resolution.

**SECTION 3.** Severability. If a part of this resolution is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this resolution is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**SECTION 4.** Effective Date. This resolution shall become effective upon passage, the public welfare requiring it.

Approved this the 7<sup>th</sup> day of November 2017

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Mayor John Roberts

ATTEST:

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City Recorder

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 Red Bank - Ruth Rohen **Public Records Request Coordinator**

From: \_\_\_\_\_  
Name of Requestor

Is the requestor a Tennessee citizen?  Yes  No

Request:  Inspection (no fee for inspection only)  
 Copy/Duplicate (\$0.15 per page for letter and legal size black and white copies)  
(\$0.50 per page for letter and legal size color copies)

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 records custodian responding to the request to identify the specific records you are seeking.

\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Requestor and Date Submitted

\_\_\_\_\_  
Signature of Public Records Request Coordinator and Date Received

<sup>i</sup> Note, (a)Tenn. Code Ann. § 10-7-504(a)(20)(C) permits charging for redaction of private records of a utility, (b) Pursuant to 18 USC 2721 and/or Tenn. Code Ann. §55-25-101, et seq., requests for motor vehicle accident reports may require redaction of certain personally identifying information as to persons involved and/or certain written certifications by the person(s) making the requests .

PUBLIC RECORD REQUEST RESPONSE  
FORM  
CITY OF RED BANK

(Date)

Requestor's Name: \_\_\_\_\_

Requestor's Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

In response to your records request received on \_\_\_\_\_ our office is taking the action(s)<sup>1</sup> indicated below:

The public record(s) responsive to your request will be made available or inspection:

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, or partially 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

The 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: \_\_\_\_\_ days.

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

Sincerely,

Ruth Rohen, Records Custodian  
(423) 877-1103  
rrohen@redbanktn.gov

<sup>1</sup> If all requested records do not have the same response, so indicate.