

ORDINANCE NO. 368

AN ORDINANCE ESTABLISHING POLICY, PROCEDURE AND REASONABLE CHARGES RELATING TO PUBLIC INSPECTION OF, ACCESS TO AND DUPLICATION OF PUBLIC RECORDS UNDER THE TENNESSEE PUBLIC RECORDS ACT (T.C.A. 10-7-504, ET SEQ) BY THE BOARD OF COMMISSIONERS OF THE TOWN OF WHITE BLUFF, TENNESSEE.

WHEREAS, the Town of White Bluff is a charter form of government; and

WHEREAS, the City Recorder pursuant to T.C.A. 6-24-404 is the custodian of the official records of the municipality; and

WHEREAS, the Tennessee Public Records Act, T.C.A. 10-7-504, et seq., as amended, provides for the access to public records; and

WHEREAS, it is necessary and desirable by ordinance to provide a policy for full access of public records and an efficient manner to access the same and make reasonable charges for copies of public records consistent with Public Chapter 1179, Acts of 2008.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of White Bluff, Tennessee, as follows:

1. It is the policy and intent of this municipality to comply with Tennessee's open records law (T.C.A. 10-7-504, et seq, "TPRA") by permitting the inspection and copying of public records of the Town. Certain records may not exist under the retention policy of the Town.
2. Provide access to those public records, and copies of those records, to citizens of this state and to public officials charged with legislative and administrative duties under the Town's charter or municipal code, and other county, state and federal officials.
3. Each department head shall be responsible for carrying out this policy. Request for the inspection of and copying of public records shall be handled as expeditiously as possible once a request is made to the municipality and the City Recorder's office as the records custodian. Such request so processed shall preserve the confidentiality of public records deemed confidential under the TPRA. All public records shall be protected from damage and disorganization. The policy for inspection and copying of public records shall balance the allocation of personnel to records inspection and copying thereof duties against the prevention of excessive interference with other essential functions of the municipality. Removal of records from City Hall shall not be permitted.

4. Confidential records are deemed any record, or part of a record, which is defined by the TPRA, or other state and federal law, as being exempt from public inspection, including, but not limited to those records listed in T.C.A. 10-7-504.

5. Public records means all documents, papers, letters, maps, books, photographs, microfilm, 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 in connection with the transaction of official business by the municipality.

6. Persons and public officials wishing to inspect or copy city records shall make a request for inspection to the City Recorder on such form as the City Recorder of the municipality shall hereafter promulgate. The Town may request reasonable identification of a requester. Should the person requesting copies of records or for inspection fail or refuse to complete the form, an employee of the municipality handling the request shall complete the form with information provided by the requesting party, and shall note the person requesting the record refused to complete the form. The municipality shall provide a requester with the necessary assistance to help the requester find such record. To the extent possible, the records requested shall be provided immediately. All requests for inspection or copying of records shall be during regular business hours. For one of the hereinafter reasons stated, if the records cannot be provided immediately, a determined effort will be undertaken to provide them by the earliest possible time. Should the nature of the records request be such as to the kind, amount and nature of records requested, or uncertainty as to what records are requested, the location and storage thereof, the format in which the records are requested, resources to locate records at the time the request is made, intervening emergencies, problems and other events that might reasonably delay the delivery of records for inspection, undue disruption of other essential governmental functions, the requester will be so notified. The Town will never unreasonably delay the delivery of records for inspection. If by the end of the second working day after the request for records is made and such is not provided to the requester, requester will be so notified and a notation will be made on the records request as to the reason for the delay and approximate date the records will be ready for inspection.

7. Some records are stored and contained as data or information within the memory or storage facilities of a computer or electronic equipment and can only be accessed through the services of certain city employees familiar with the operation of such equipment for inspection or copying. Where records create special problems of determining confidentiality of all or some of their parts before they are viewed or if the requester wants the records in a format different from those contained in equipment, additional delays in the delivery of the records not typical of paper copies of records may occur. Every effort shall keep such delays to a minimum. Such a delay shall cause the requester to be notified as to the approximate length of the delay in the delivery of the records for inspection, and will enter it on the request for records. Unless confidential information cannot be obscured from view, the requester may view the information on the Town's computer screen. Otherwise, the requester may have the records transferred to a storage media, or request paper copies of such records.

8. Upon receipt of a request to inspect a copy of a public record, such shall be granted unless there is confidential information, in whole or in part, under the TPRA and/or any other applicable law. Should uncertainty exist as to a confidential record, consultation shall be

made with the City Recorder, Mayor, or City Attorney. In such event the requester will be notified that uncertainty exists as to the confidentiality of a record and notation will be made on the request indicating the reason for the uncertainty with as much specificity as possible, and the approximate date the uncertainty will be resolved. Once determination is made that a record is confidential, the requester shall be notified and supply the requester with a rejection of the request, noting the reason the record is confidential and citing, if possible, the statute supporting the confidentiality.

9. All of city records shall remain in the physical custody of the municipality at all times and inspection and review shall be under the supervision of a Town employee. To the extent possible, copies shall be made on the Town's equipment. Where the equipment does not exist, is inoperative, is not designed to copy the records requested, or the requester wants copies in a format the Town's equipment cannot duplicate, the copies may be made on commercial copying equipment. In such event, the requester shall be notified and if the requester decides that he or she wants a commercially made copy of the records, he or she shall notify the records custodian who shall determine the estimated cost of the copies. If the requester desires to obtain the commercial copies he or she shall pay the estimated cost of the copies. If the actual cost of the copies exceeds the amount previously paid by the requester, the balance shall be paid by the requester before delivery of the copies. If the previous payment made by the requester exceeds the cost of the copies, the excess will be refunded to the requester upon the delivery of the copies.

10. Public officials shall be charged for copies of commercially copied records under the same procedure for commercially copied records provided for the general public. Public officials otherwise shall not be charged for copies where the total cost prescribed for copies of public records for the general public does not exceed Twenty-Five (\$25.00) Dollars. For records that exceed that cost, public officials shall pay the same cost for public records required to be paid by the general public. The Town may waive the requirement where the waiver appears in the best interest of the Town.

11. When records are requested for inspection or copying, the Town has seven (7) days to determine whether or not it can retrieve the records requested and whether the records requested contain any confidential information, and the estimated charge for copying based upon the number of copies and the amount of time required. Within seven (7) days of a request for records, the records custodian shall produce the records requested; deny the records in writing giving explanation for denial; or in the case of voluminous requests, provide the requester, in writing, with an estimated time frame for production and an estimation of duplication costs.

12. While there is no charge assessed to a requester for inspecting a public record, charges for physical copies shall be in accordance with the current schedule of reasonable charges as promulgated or hereafter promulgate by the State of Tennessee Office of Open Records Counsel, as set forth on Exhibit "A" attached hereto and incorporated by reference, which is the current rate schedule on date of adoption of this ordinance.

13. The Chief of Police shall maintain in his or her office records of undercover investigators containing personally identifying information. All other personnel records of the

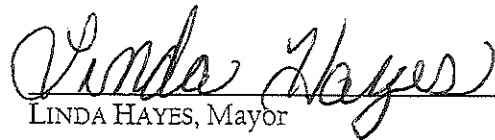
police department shall be maintained in the office of the City Recorder. Request for personnel records, other than undercover investigators, shall be made to the Town custodian who shall promptly notify the Chief of Police of such request. The Chief of Police shall make the final determination as to the release of information requested. In the event the Chief of Police refuses to release the information, he shall provide a written explanation of the reasons for not releasing the information.

14. If public records requested are frail due to age or other conditions and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection.

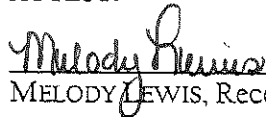
The foregoing ordinance establishing policies procedures for public inspection of, access and duplication of public records and reasonable charges for copies of public records shall take effect on the date of adoption, the public welfare requiring the same. Any ordinance heretofore adopted in conflict herewith is here and now expressly repealed.

This Ordinance shall take effect from and after its passage, the public welfare requiring same.

ORDAINED on this the 5th day of August, 2014.


LINDA HAYES, Mayor

ATTEST:


MELODY LEWIS, Recorder

APPROVED AS TO FORM AND LEGALITY:

STAN REYNOLDS, Attorney

PASSED FIRST READING: July 1, 2014

PASSED SECOND READING: August 5, 2014

REYNOLDS, POTTER, RAGAN
& VANDIVORT, PLC

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*RULE 31 LISTED MEDIATOR

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RALPH O. FRAZIER, JR.

June 30, 2014

Via Email ONLY: linda.hayes@townofwhitebluff.com

Mayor Linda Hayes
Town of White Bluff
P. O. Box 300
White Bluff, Tennessee 37187

RE: TENNESSEE PUBLIC RECORDS ACT
ORDINANCE

Dear Mayor:

Enclosed please find a draft of Ordinance adopting a Public Records Ordinance. This Ordinance generally follows the MTAS model ordinance, however there are changes due to our structure.

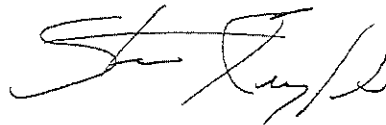
The current contact person at the State of Tennessee office of Open Records Counsel is Elisha Hodge. She will provide us with a current schedule of charges. However, from time to time as the State laws change, the fee schedule will change and the charge for making copies may increase.

Some municipalities have been plagued by multiple requests to inspect and/or copy public records. If the Town does not adopt a policy, then you cannot charge for making the copies. As we do not want to be unprepared for such requests, I recommend that the Ordinance be passed.

If you have any questions, please don't hesitate to call. I'll see you Tuesday evening at 7:00 p.m.

Sincerely yours,

REYNOLDS, POTTER, RAGAN & VANDIVORT, PLC



STAN REYNOLDS

SR:dmb

Enclosure: Draft - Public Records Ordinance
xc: Mr. Jeff Martin, Projects Administrator via email only
Mrs. Melody Lewis, Town Recorder via email only
Mr. Andrew E. Mills via email only