

ORDINANCE 17-07

AN ORDINANCE TO AMEND TITLE 1, CHAPTER 1, SECTION 1-104 OF THE NOLENSVILLE MUNICIPAL CODE TO UPDATE PROCEDURES FOR PUBLIC INSPECTION OF, ACCESS TO AND DUPLICATION OF PUBLIC RECORDS

WHEREAS, pursuant to *Tennessee Code Annotated* § 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, the policy adopted shall not impose requirements on those requesting records that are more burdensome than state law; and

WHEREAS, the Town’s public records policy was last updated by Ordinance #09-07; and

WHEREAS, the Board of Mayor and Aldermen of the Town of Nolensville desires to comply with the recent change in state law as it pertains to records management.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF NOLENSVILLE THAT:

Section 1. Title 1, Chapter 1, Section 1-104 shall be deleted in its entirety and replaced with the following 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.*

**PUBLIC RECORDS POLICY FOR
THE TOWN OF NOLENSVILLE**

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for the Town of Nolensville is hereby adopted by the Board of Mayor and Aldermen 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, at all times during business hours 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. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the Town of Nolensville are presumed to be open for inspection unless otherwise provided by law.

Personnel of the Town of Nolensville 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 public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Town of Nolensville, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for the Town of Nolensville or to the Tennessee Office of Open Records Counsel (“OORC”).

This Policy is available for inspection and duplication in the office of the Town Recorder. Additionally, this Policy is posted online at www.nolensvilletn.gov. This Policy shall be reviewed periodically as needed.

This Policy shall be applied consistently throughout the various offices, departments, and/or divisions of the Town of Nolensville.

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. The PRRC will request a mailing or e-mail address from the requestor for providing any written communication required under the TPRA.
- C. Requests for inspection may be made orally or in writing on Form A at the Town of Nolensville Town Hall, 7218 Nolensville Road, Nolensville, Tennessee 37135, by phone at 615-776-3633.
- D. Requests for copies, or requests for inspection and copies, shall be made in writing on Form A in person or by mail at the Town of Nolensville Town Hall, 7218 Nolensville Road, Nolensville, Tennessee 37135, by phone at 615-776-3633.
- E. 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.

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 Town of Nolensville 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 ground 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;
 - iii. An exemption makes the record not subject to disclosure under the TPRA;
 - iv. The Town of Nolensville is not the custodian of the requested records; or
 - 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 Town of Nolensville
3. The designated PRRC is:
 - a. Name or title: Town Recorder
 - b. Contact information: the Town of Nolensville Town Hall, 7218 Nolensville Road, Nolensville, Tennessee 37135, by phone at 615-776-3633.

B. Records Custodian

1. Upon receiving a public records request, a records custodian shall 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 Form B, based on the form developed by the OORC.
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 and may use the Public Records Request Response Form B.
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 B 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 contact the requestor concerning the omission and produce the records as quickly as practicable.

C. Redaction

1. If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the records custodian should coordinate with counsel or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with the OORC.
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 public records
- B. The location for inspection of records within the offices of the Town of Nolensville shall be determined by either the PRRC or the records custodian.

C. When a reasonable basis exists, the PRRC or a records custodian may require an appointment for inspection.

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 the Town of Nolensville Town Hall.

C. Upon payment for postage, copies will be delivered to the requestor's home address by the United States Postal Service.

D. A requestor will not be allowed to make copies of records with personal equipment. Requestors may purchase storage devices from the Town of Nolensville upon which the records will be downloaded.

VI. Fees and Charges and Procedures for Billing and Payment

Fees and charges for copies of public records should not be used to hinder access to public records.

A. Records custodians shall provide requestors with an itemized estimate of the charges prior to producing copies of records and may require pre-payment of such charges before producing requested records.

B. When fees for copies and labor do not exceed \$2.50, the fees may be waived. Requests for waivers for fees above \$2.50 must be presented to, who is authorized to determine if such waiver is in the best interest of the Town of Nolensville and for the public good. Fees associated with aggregated records requests will not be waived.

C. 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. The actual cost of any other medium upon which a record/information is being produced.

4. Labor when time exceeds one hour.

5. If an outside vendor is used, the actual costs assessed by the vendor.

D. Payment is to be made in cash, by personal check made payable to the Town of Nolensville, or credit card to include processing fees normally charged by the Town and presented to the town recorder or municipal clerk.

E. Payment in advance will be required when costs are estimated to exceed \$10.00.

F. Aggregation of Frequent and Multiple Requests

1. The Town of Nolensville 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. If more than four (4) requests are received within a calendar month:
 - a. Records requests will be aggregated.
 - b. The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian will 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.
 - c. Requests for items that are routinely released and readily accessible are exempt from this policy. These records include, but are not limited to: documents, plans and/or records found on the Town's website at www.nolensvilletn.gov.

Section 2. Repealer. 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.

Jimmy Alexander, Mayor

Attest: _____
Kali Mogul, Town Recorder

Approved as to form and legality: _____
Robert J. Notestine, III, Town Attorney

Passed 1st Reading: _____

Passed 2nd Reading: _____