

**FULL TEXT OF MEASURE U
CITY OF BREA**

THE PEOPLE OF THE CITY OF BREA DO ORDAIN

SECTION 0: This initiative shall be known as the, "**BREA OPEN GOVERNANCE ACT.**"

SECTION 1: *The purpose of this initiative is to enact local legislation to improve transparency in local government and make it easier for people to access city government so that they may be more informed about what their city is doing and so that they may be involved in a more meaningful and knowledgeable way. Open governance shall include both open documents and open meetings. This initiative does not modify either the California Public Records Act (CPRA - Government Code Section 6250 et seq.) or the Ralph M. Brown Act (Government Code Section 54950 et seq.), but rather is intended to enhance the stated objectives of those Acts.* This measure enacts local legislation as Municipal Code Section 2.30.100 through 2.30.400, as specified below to improve transparency and ensure citizen ability to review and comment on: the city's executive management, records requests and conduct of the people's business.

SECTION 2: Presently, phone and internet form requests for City documents are not permitted. *Section 2.30.100 shall be added to the Brea Municipal Code as:* "The City of Brea shall accept, as a minimum, requests submitted by the following methods phone, U.S. mail (or its equivalent), over the counter and by email via electronic internet forms. Additional methods of submission shall be allowed as may be approved by the Brea City Council."

SECTION 3: *Brea Municipal code Section 2.30.102 shall be added as:* "City shall keep a log of each submitted request and the results thereby showing, as a minimum, date of request, a brief summary of the request, the date the response was completed or and the records were available, an indicator to denote no records were available (when applicable), the name of the requestor (when furnished), their email address (when furnished) and the staff member(s) responsible for processing the request. Submissions which provide no method of response must still be logged-in but otherwise may be ignored."

SECTION 4: *Brea Municipal Code Section 2.30.104 shall be added as:* All requests received via any format where an email address was provided shall be sent a return email acknowledgement of the receipt within one (1) business day after the request is received. Reasonable effort shall be exerted to promptly complete requests or make documents available within 2 business days."

SECTION 5: *Brea Municipal Code Section 2.30.106 shall be added as:* "Documents which constitute active city agreements/contracts entered into prior to the effective date of the act which exceed \$5,000 shall be digitized in response to a public records request or as time is available and published via the internet as the electronic documents become available. Details such as vendor, amount, date, etc. of all checks issued and available in the city's financial accounting system shall be published via the web. All documents which constitute new agreements/contracts with totals exceeding \$5,000 shall be digitized, processed with optical character recognition and published via the internet to facilitate document retrieval."

SECTION 6: *Brea Municipal Code Section 2.30.108 shall be added as:* "Documents available in electronic format shall be made available via email to the requestor at no charge or reproduced in paper form upon payment of reproduction charges plus postage when applicable. Reproduction charges shall not exceed 150% of the per page copy charges identified in Government Code Section 81008. Upon each single request, documents of fewer than 20 pages located by the city clerk's designee shall be scanned and emailed at no charge to the requestor. A request for more than one document at the same time shall be considered a single request."

SECTION 7: *Brea Municipal Code Section 2.30.110 shall be added as:* "City Clerk shall publish in the annual budget document the number of public records requests received during that fiscal year, the number of requests where documents were available, the number of requests where no documents were available in response to the request, the number of requests completed (or records available) within: 24 hours, 5 days, 10 days and over 10 days."

SECTION 8: *Brea Municipal Code Section 2.30.112 shall be added as:* "City Clerk shall promptly report to council any improper hindrance in the offering of public records. Such hindrances include managerial direction to falsely indicate that electronic records are unavailable or instructions to falsely respond to a request indicating no documents are responsive when the Clerk has knowledge of responsive documents. Anyone who improperly hinders the offering of public records shall be guilty of a misdemeanor."

SECTION 9: *Brea Municipal Code Section 2.30.200 shall be added as:* "No closed sessions shall be held for discussions of any proposed City Manager goals and performance objectives. Nor shall any related documents be withheld from the public."

SECTION 10: *Brea Municipal Code Section 2.30.202 shall be added as:* "No closed sessions shall be held for discussions of any proposed City Manager salary increase. Nor shall any related documents be withheld from the public."

SECTION 11: *Brea Municipal Code Section 2.30.204 shall be added as:* "No closed sessions shall be held for discussions of any proposed City Manager incentive, bonus or monetary award. Nor shall any related documents be withheld from the public."

SECTION 12: *Brea Municipal Code Section 2.30.206 shall be added as:* "After closed session negotiations result in a proposed settlement supported by a majority of council members, the matter will be open for public discussion and comment prior to the final council vote."

SECTION 13: *Brea Municipal Code Section 2.30.208 shall be added as:* "To ensure that city staff does not expend taxpayer dollars in exchange for silence, City shall forswear offering any inducement to any party to actual or potential litigations, or to any other agreement, or to any outgoing employee, to discourage him or her from discussing or revealing any information unless disclosure of that information is independently prohibited by state or federal law."

SECTION 14: *Brea Municipal Code Section 2.30.300 shall be added as:* "Citizens shall be afforded the right to use city owned presentation tools (such as a video projector) when commenting at any open meeting where those presentation tools are already available for use by any City representative at that meeting."

SECTION 15: *Brea Municipal Code Section 2.30.302 shall be added as:* "Video and audio for all Scheduled Study Sessions shall be recorded and published via the internet. No Brea public official shall interrupt or censor any speaker during the Matters from the Audience section of each council meeting with the exception of enforcing a 5 minute minimum time limit."

SECTION 16: *Brea Municipal Code Section 2.30.304 shall be added as:* "No ballot measure which proposes to create or increase a general tax shall mislead the public by specifying specific purposes such as Police and Fire in any proponent statement. Should any City employee, councilmember or representative wish to add or modify a tax and specify use of the proceeds, staff must propose a special tax."

SECTION 17: *Brea Municipal Code Section 2.30.400 shall be added as:* "A permanent 3 member volunteer citizen oversight commission shall be created from applicants who are not employees of the city and do not have immediate family members employed by the city. Former commission members shall be barred from city employment for at least one year after they leave the commission. Applications for each open four year term must be filed with the city clerk on or before the council meetings immediately following passage of this act and for each subsequent regularly scheduled election where city council members are elected and subsequent commission vacancies. At such time 3 or fewer applicants (depending on the number of applicants) will be randomly selected by the City Council to serve a four year term to establish overlapping terms. The commission's contact information shall be published on public records request forms and on the city's website. They shall serve as an ombudsman review board of citizen complaints for items in or relating to enforcement of the provisions of this initiative, periodically report to council on compliance and levy appropriate fines against the individuals responsible for violation of items in or relating to this initiative. Fines imposed and received shall be deposited for exclusive use of the Brea Senior Center and shall not in any way serve to reduce their budget."

SECTION 18: If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or application, and to this end the provisions of this measure are severable.

SECTION 19: This initiative may not be amended except upon voter approval.