

PUBLIC RECORDS POLICY FOR THE HAMILTON COUNTY CLERK'S OFFICE

Pursuant to Tennessee Code Annotated (TCA) §10-7-503(g), the following Public Records Policy for the Hamilton County Clerk's Office is hereby adopted by Hamilton County Clerk William F. (Bill) Knowles and approved by the Hamilton County Attorney's office to provide economical and efficient access to public records as provided under the Tennessee Public Records Act (TPRA) in TCA §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 TCA §10-7-503(a)(2)(A). Accordingly, the public records of the Hamilton County Clerk's office are presumed to be open for inspection unless otherwise provided by law. This policy shall not apply to government and/or quasi-governmental entities that shall seek access to the Hamilton County Clerk's records within the scope and furtherance of their official duties.

The appropriate personnel of the Hamilton County Clerk's office 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 the Hamilton County Clerk's office, shall be protected as provided by current law. Concerns about this Policy should be addressed to the respective Public Records Request Coordinator (PRRC) for the Hamilton County Clerk's office or to the Tennessee Office of Open Records Counsel (OORC).

This Policy is available for inspection and duplication in the office of the Hamilton County Clerk. This Policy is posted online at www.countyclerkanytime.com.

This policy shall be reviewed at a minimum of every two years by the Hamilton County Clerk. Changes to this policy may be made periodically, as it serves the public interest, and submitted to the Hamilton County Attorney's office for review prior to adoption by the Hamilton County Clerk. In the interim period, the Hamilton County Clerk may make amendments to this policy subject to approval by the Hamilton County Attorney.

I. Definitions

- A. Records Custodian: The office, official, or employee lawfully responsible for the direct custody and care of a public record. See TCA § 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 TCA § 10-7-503(a)(1)(A).
- C. Public Records Request Coordinator (PRRC): The individual, or individuals, designated in 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 TCA § 10-7-503(a)(1)(B). The PRRC may also be a records custodian.

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- D. Commercial Records. Pursuant to Tenn. Code Ann. §10-7-506(4), "commercial record" shall mean a record requested for any purpose other than a non-business use by an individual or a news gathering use by the news media.
- E. Requestor: A person seeking access to a public record, whether for inspection or duplication.
- a) **Citizenship Requirement**. The Tennessee Public Records Act applies only to Tennessee citizens. The Hamilton County Clerk believes the spirit of the law is to provide the public meaningful access to government records. Accordingly, the Hamilton County Clerk does not require requestors to be a citizen of Tennessee, and, therefore, does not require requestor's to submit proof of residence with their request. However, the Hamilton County Clerk hereby reserves the right to inquire as to a requestor's citizenship prior to providing the requested records, and may deny requests made by citizens, where the PRRC reasonably believes the request is for commercial records, as defined herein, or upon the requestor's refusal to provide proof of citizenship upon request by the PRRC or records custodian.
 - b) **Non-Citizen Requests**. Requests made by persons who are not citizens of Tennessee will be processed after all outstanding citizen requests. Non-citizen requests may not be responded to or fulfilled within the statutorily prescribed time frames. The Hamilton County Clerk reserves the right to deny requests made by non-citizens who fail to respond to requests for additional information from the PRRC or records custodian, or where the PRRC reasonably determines the request is for commercial records, as defined herein.
- F. Copies: Refers to physical, paper copies of records.
- G. Electronic Copies: Refers to copies of requested materials either originally maintained in electronic form or converted to electronic form, and provided to the requestor via online access or email.
- H. Safe at Home Address Confidentiality Program: A program through the Tennessee Secretary of State's Office, pursuant to the 2018 Public Chapter 1004, under which the State will provide address confidentiality to assist victims of domestic violence, stalking, human trafficking, and sexual assault offenses. Such address confidentiality includes a substitute address that may be used for most legal purposes. Such address shall be accepted as proof of citizenship when required under applicable law and this policy.

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II. Requesting Access to Public Records

- A. Public record requests shall be made to the 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 by Corporations and Other Artificial Entities:** The State of Tennessee Office of Open Records Counsel issued Opinion No. 12-04, addressing whether a records custodian is required to produce records in response to a request by a corporation or other artificial entity. Upon reviewing Tenn. Code Ann. §10-7-503(a)(2)(A) and Tenn. Code Ann. § 11-7-503(a)(7)(A), the Office of Open Records Counsel determined, in pertinent part, that, "Because a corporation does not have the ability to provide a government issued photo identification with an address on it... the term 'citizen' does not include corporations." (Op. Tenn. ORC 12-04). Accordingly, it is the policy of the Hamilton County Clerk that corporations and similar entities are not citizens for purposes of public records requests. Therefore, corporate records requests will be summarily denied. Similarly, pursuant to the definition of "commercial record" as defined by Tenn. Code Ann. §10-7-506(4), and included at § I (G) of this Policy, it is the position of the Hamilton County Clerk that where an individual requests records that the PRRC reasonably believes are "commercial records," as that term is defined herein, such requests shall be summarily denied.
- C. Requests for inspection only cannot be required to be made in writing. The PRRC should request a mailing [or email] address from the requestor for providing any written communication required under the TPRA.
- D. Requests for inspection may be made orally or in writing by contacting the respective PRRC listed on page 4.
- E. Requests for copies, or requests for inspection and copies, may be made in writing using the *Public Records Request Form* (Appendix A) for notary public and commission records. The *Vehicle Information Request Form* (Appendix B) should be used solely for motor vehicle record requests. The forms are available for pick up at the Hamilton County Clerk's office, or may be obtained online at <http://www.countyclerkanytime.com>. Requests for marriage certificates, duplicate business licenses, and duplicate motor vehicle registrations may be made verbally, by electronic mail or in writing. No request form is required.

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III. Responding to the Public Records Requests

A. Public Record Request Coordinator (PRRC)

1. The PRRC shall review public record requests and make an initial determination of the following:
 - a. If the requestor is a:
 - i. Person, *i.e.*, not a corporation or artificial entity; or
 - ii. Tennessee citizen; or
 - iii. Member of the news media.
 - b. If the records requested are described in sufficient detail to identify them;
 - c. If the records requested are "public records" or "commercial records" as those terms defined herein; and
 - d. If the Hamilton County Clerk is the custodian of the records.
2. The PRRC shall acknowledge receipt of the request within seven (7) days of the PRRC's 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. Additional information required from the requester to allow for further evaluation and/or fulfillment of the request;
 - ii. Form(s) required for copies;
 - iii. Applicable fees, if any required to fulfill the request; 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 failed to establish Tennessee citizenship upon request by the PRRC or records custodian, or failed to establish that the requestor was a member of the news media;
 - ii. The requestor is a corporation or artificial entity;
 - iii. The requestor is not a Tennessee citizen, but refused to cooperate with the PRRC or records custodian to provide additional requested information;
 - iv. The request lacks specific detail;
 - v. An exemption makes the record not subject to disclosure under the TPRA;

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- vi. The Hamilton County Clerk is not the custodian of the requested records;
 - vii. The records do not exist;
 - viii. The requestor has an outstanding balance due from a previous public records request.
- c. If appropriate, contact the requestor to see if the request can be narrowed.
- d. 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.

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3. The designated PRRC(s) are:

Business License Records

Carrie Godwin
625 Georgia Avenue, Rm. 201
Chattanooga, TN 37402
Office: (423) 209-6595 Fax: (423) 209-6501
Email: BusinessRecords@hamiltontn.gov

Hamilton County Commission Records

Carrie Godwin
625 Georgia Avenue, Rm. 201
Chattanooga, TN 37402
Office: (423) 209-6595 Fax: (423) 209-6501
Email: CountyCommissionRecords@hamiltontn.gov

Marriage License Records

Carrie Godwin
625 Georgia Avenue, Rm. 201
Chattanooga, TN 37402
Office: (423) 209-6595 Fax: (423) 209-6501
Email: MarriageRecords@hamiltontn.gov

Motor Vehicle Records

Monica Brown
625 Georgia Avenue, Rm. 111
Chattanooga, TN 37402
Office: (423) 209-6552 Fax: (423) 209-6596
Email: MotorVehicleRecords@hamiltontn.gov

Notaries Public Records

Carrie Godwin
625 Georgia Avenue, Rm. 201
Chattanooga, TN 37402
Office: (423) 209-6595 Fax: (423) 209-6501
Email: NotaryRecords@hamiltontn.gov

4. The PRRC(s) shall report to the Hamilton County Clerk on an annual basis regarding compliance with the TPRA pursuant to this policy and shall make recommendations, if any, for improvements or changes to this policy.

B. PRRC

1. Upon receiving a public request, a PRRC shall promptly make requested public records available in accordance with TCA § 10-7-503. If the PRRC is uncertain that an applicable exemption applies, the PRRC may consult with the Hamilton County Attorney's office 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 PRRC shall, within seven (7) business days from the PRRC's receipt of the request, send the requestor a completed *Public Records Request Response Form* (Appendix C1 or Appendix C2). Alternatively, the PRRC may respond by written letter and /or email, provided that the requestor has provided an email address and demonstrated a willingness to communicate electronically;

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3. If the PRRC denies a public record request, he or she shall deny the request in writing as stated in this policy using the *Public Records Request Response Form*. Alternatively, the PRRC may respond by written letter and /or email, provided that the requestor has provided an email address and demonstrated a willingness to communicate electronically;
4. If a PRRC 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 PRRC 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. Alternatively, the PRRC may respond by written letter and /or email, provided that the requestor has provided an email address and demonstrated a willingness to communicate electronically. If appropriate, the PRRC should contact the requestor to see if the request can be narrowed.
5. If a PRRC discovers records responsive to a records request were omitted, the PRRC should notify the requestor concerning the omission and produce the records as quickly as practicable.
6. The PRRC shall maintain a log of oral/inspection only requests.

C. Redaction

1. If a record contains confidential information or information that is not open for public inspection, the PRRC shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the PRRC may consult with the Hamilton County Attorney's office, the OORC or the Office of Attorney General and Reporter.
2. Whenever a redacted record is provided, the PRRC should provide the requestor with the basis for redaction. Alternatively, the PRRC may respond by written letter and /or email, provided that the requestor has provided an email address and demonstrated a willingness to communicate electronically. The basis given for redaction shall be general in nature and not disclose confidential information.
3. **Safe at Home Address Confidentiality Program.** Under the applicable law, a participant in this program is entitled to privacy of any and all information contained in the participant's program file, including, but not limited to the participant's identity, actual address, phone number, place of employment, identifying information of the participant's minor children, etc. Information contained in the participant's file is confidential and is not a public record. Accordingly, it is the policy of the Hamilton County Clerk that if the PRRC has reason to believe the records requested include confidential information of a program participant, such information shall not be provided to the requestor.

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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 Hamilton County Clerk should be determined by the PRRC.
- C. Inspection of records shall generally be available during normal departmental business hours. Under reasonable circumstances, the PRRC may require an appointment for inspection or may require inspection of records at an alternate location, as necessary to preclude such inspection from interfering with the department's normal operations.

V. Copies of Records

- A. A PRRC shall promptly respond to a public record request for copies in the most economical and efficient manner practicable.
- B. Copies will be available for pickup at a location specified by the PRRC.
- C. Records will be delivered to the requestor's address upon payment for postage, copies, and the retrieving employees' wages after the first hour of retrieval time (exclusive of employee benefits).
- D. All copies of records must be produced by the appropriate PRRC using Hamilton County equipment. Requestors will not be permitted to make copies of records using their own equipment, including, but not limited to: portable scanners, laptops, tablets, cell phones, external storage devices, etc.

VI. Electronic Copies of Records

- A. A PRRC shall promptly respond to a public records request for electronic copies in the most economical and efficient manner practicable.
- B. If the requested records are not already in an electronic format, the PRRC may create an electronic copy of the requested records if appropriate.
- C. Records will be delivered to the requestor upon payment for the retrieving employees' wages after the first hour of retrieval time (exclusive of employee benefits), required to either retrieve the electronic records and/or to convert, or prepare, such records to an electronic format:

1. **Small Volume.** Electronic copies that are a small volume will be sent to the Requestor's verified email address.

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- 2. Large Volume.** Electronic copies that are a large volume may be delivered by online access. Upon the PRRC's receipt from the records custodian of an electronic copy of the records, the PRRC shall notify the requestor by email, at the requestor's verified email address, and provide the requestor with a download link, by which the requestor shall have time-limited access to the requested electronic copies.
- D.** All copies of records must be produced by the appropriate PRRC using Hamilton County equipment. Requestors will not be permitted to make copies of records using their own equipment, including, but not limited to: portable scanners, laptops, tablets, cell phones, external storage devices, etc.

V. Fees, 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 electronic transmission within the first hour of retrieval time.
- B.** The PRRC shall provide requestors with an itemized estimate of the charges using the *Estimate Form for Copies or Duplicates (Appendix D)* prior to producing copies of records and may require partial or complete pre-payment of such charges before producing requested records. In the event that a requestor shall agree to an estimated amount, then refuse to pay such amount after records are produced, the Hamilton County Clerk may refuse to comply with any further public record requests.
- C.** The Fees may be waived when costs for copies and labor do not exceed \$4.99 (US currency). Requests for waivers for fees above \$4.99 (US currency) must be presented to the Hamilton County Clerk who is authorized to determine if such waiver is in the best interest of the Hamilton County Clerk's Office and for the public good. Under no circumstances will fees associated with the aggregated records requests be waived.
- D.** Electronic access to retrieved, redacted, and non-alterable records may be provided at no charge. However, the cost to prepare the electronic records, if any, shall be charged to the Requestor, and must be paid prior to access of such records.
- E.** Fees and charges for paper copies are as follows:

Motor Vehicle Records (as governed by the Federal Drivers Protection Act) (DPPA) (18 U.S.C. § 2721):

1. Computer printout of a vehicle record: \$1.00 (US currency) per record. (TCA § 55-2-106)
2. Public request for certified copy of record: \$5.00 (US currency) per record. (TCA § 8-21-701 (11 & 12))

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3. Labor when time exceeds one hour shall be calculated by the PRRC as follows: determine the total amount of labor for each employee and subtract the first hour of labor of the employee with the highest hourly rate of pay; multiply the remaining amount of labor for each employee by each employee's hourly wage.

Example: The hourly wage of Employee A is \$15. The hourly wage of Employee B is \$20. Employee A spends two (2) hours on a request. Employee B spends two (2) hours on the same request. Since Employee B is the highest paid employee, the first hour of time spent by Employee B in producing the request will be waived. Thus, for this example, the labor charge would be \$50.

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

All other records:

1. \$0.50 (US currency) per page with a cap of \$5.00 (US currency) per document. (TCA § 8-21-701 (11 & 12))
2. Public request for certified copy of record: \$5.00 (US currency) per record. (TCA § 8-21-701 (11 & 12))
3. Labor when time exceeds one hour shall be calculated by the PRRC as follows: determine the total amount of labor for each employee and subtract the first hour of labor of the employee with the highest hourly rate of pay; multiply the remaining amount of labor for each employee by each employee's hourly wage. See the example above.
4. If an outside vendor is used, the actual costs assessed by the vendor.

Payment for Record(s):

1. Payment is to be made by cash, credit card, or cashier's check, made payable to the Hamilton County Clerk and presented to the PRRC. *An Invoice for Copies and Duplicates* (Appendix E) will be provided to the requestor upon payment of all applicable fees.
2. Payment in advance will be required when costs are estimated to exceed \$20.00 (US currency).

F. Aggregation of Frequent and Multiple Requests

1. The Hamilton County Clerk's office will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than four (4) requests are received within any consecutive thirty (30) day period, either from a single individual or a group of individuals deemed working in concert. The level at which records requests will be aggregated is by commercial entity and/or individual. The PRRC is responsible for making the determination that a group of individuals are working in

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concert. The PRRC 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 OORC.

- a. Routinely released and readily accessible records excluded from aggregation include, but are not limited to: electronic records that are readily available to transmit without providing paper copies may be accessed at:
<http://www.countyclerkanytime.com/onlinesvcs.aspx>
<http://www.hamiltontn.gov/DataServices/Default.aspx>