

PUBLIC RECORDS POLICY
for
HAMILTON COUNTY, TENNESSEE, GENERAL GOVERNMENT

I. POLICY SUMMARY

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for Hamilton County, Tennessee General Government, is hereby adopted by the Hamilton County 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. See definition of “Public Records” in Section II, below.

The TPRA provides that all 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 of this state, unless otherwise provided by state law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of Hamilton County General Government are presumed to be open for inspection by any member of the general public and any commercial entity, as provided herein, unless otherwise limited by law. This policy shall not apply to government and/or quasi-governmental entities that shall seek access to Hamilton County General Government records within the scope and furtherance of their official duties.

The appropriate personnel of Hamilton County General Government 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 Hamilton County General Government, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for Hamilton County, Tennessee (hereinafter “PRRC”), or to the Tennessee Office of Open Records Counsel (hereinafter “OORC”).

This Policy is available for inspection and duplication in the Hamilton County Attorney's Office at:

625 Georgia Avenue, Suite 204
Chattanooga, TN 37402

Additionally, a copy of this policy is available electronically at:

<http://www.HamiltonTN.gov/OpenRecords/>

This Policy shall be applied consistently throughout the various offices, departments, and/or divisions of Hamilton County General Government, without exception.

A separate policy and procedure may be established and followed by the following general county government departments and constitutional officials whose offices receive, file, record, archive, and retrieve documents in the course of their respective duties to the public. Upon the development of a written internal policy, approved by the Hamilton County Commission, the departments and officials listed below shall be exempt from this Policy, to the extent that their policy differs from that of Hamilton County General Government. Until such time as the following departments shall develop their own internal policy, their existing procedures and policies shall apply to all records they produce or maintain in the normal course of their duties and operations.

- A. Hamilton County Human Resources;
- B. Hamilton County Sheriff's Office;
- C. The Chattanooga-Hamilton County Health Department;
- D. Hamilton County Emergency Medical Services;
- E. Hamilton County Emergency Management Services/Homeland Security;
- F. Hamilton County Public Works Department;
- G. Hamilton County Geographic Information System;
- H. Hamilton County Water and Waste Water Treatment Authority (WWTA);
- I. Hamilton County Water Quality Program;
- J. The Hamilton County Clerk;
- K. The Hamilton County Clerk & Master's Office;
- L. The Hamilton County Register of Deeds;
- M. The Hamilton County Trustee;
- N. The Hamilton County Election Commission;
- O. The Hamilton County Assessor of Property;
- P. Hamilton County General Sessions Courts – Criminal and Civil Clerks;
- Q. Hamilton County Criminal and Civil Circuit and Chancery Courts; and
- R. Hamilton County Circuit, Criminal, and Juvenile Court Clerks

The following entities are completely exempt from this policy: The Chattanooga-Hamilton County Regional Planning Authority.

II. DEFINITIONS

A. **Public Records Request Coordinator (PRRC):** The individual, or individuals, designated in Section IV 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, this policy, and all other applicable statutes, regulations, or guidelines. See Tenn. Code Ann. § 10-7-503(a)(1)(B). The PRRC may also be a Records Custodian.

B. **Records Custodian:** The office, official or employee lawfully responsible for, or appropriately designated with, 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.

C. **Public Records:** All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other materials, 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).

D. **Requestor:** A person seeking access to a public record, whether for inspection or duplication. Hamilton County may not require that such individual be a resident of Tennessee, and, therefore, may not require such Requestor to provide proof of residence. However, Hamilton County General Government hereby reserves the right to inquire as to a Requestor's citizenship prior to providing requested records.

E. **Copies:** Refers to physical, paper duplicates of records.

F. **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.

III. REQUESTING ACCESS TO PUBLIC RECORDS

A. **To Whom Shall Requests be Directed.** Public record requests to Hamilton County General Government shall be made to the PRRC 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.** Requests for inspection only may be made orally by phone call to the appropriate department, office, or division, or in writing using the Hamilton County Public Records Act Request Form (hereinafter "the HC Request Form"), included as part of this Policy as Appendix A, available for pick up at any Hamilton County General Government office, or online at: <http://www.HamiltonTN.gov/OpenRecords/>

While inspection only requests cannot be required to be made in writing, pursuant to Tenn. Code Ann. § 10-7-505, the PRRC or Records Custodian may request a verifiable mailing and/or email address from the Requestor for providing any written communication required under the TPRA and/or necessary to complete the request. Further, the Records Custodian shall maintain a log of such requests.

In the event that two or more times during the six-month period preceding the current public records request, after having been notified that the requested records are available, and/or being given an appointment or time frame of up to fifteen (15) calendar days in which to inspect the records, a Requestor fails to attend an appointment, or appear to inspect the requested records, any office, department, or division of Hamilton County Government—including such office, department, or division specifically exempted hereunder—may refuse to comply with future requests for a period of up to six months. See Tenn. Code Ann. § 10-7-503 (vii) (a).

C. **Requests for Electronic Copies.** A Requestor seeking electronic copies of public records must submit such request using the HC Request Form, and must provide a verifiable email address. The PRRC may request additional contact information, as necessary to fulfill the request.

D. **Requests for Copies, or for Inspection and Copies.** Requests for copies, or requests for inspection and copies, shall be made in writing using the HC Request Form, available for pick up at any Hamilton County General Government office, or online at:

<http://www.HamiltonTN.gov/OpenRecords/>

E. **Records Available Online Without Request.** Certain public records, such as court dockets, business names, and certain licenses and applications are available online at:

<http://www.hamiltontn.gov/DataServices/Default.aspx>

<http://www.countyclerkanytime.com>

IV. HAMILTON COUNTY GENERAL GOVERNMENT PUBLIC RECORDS REQUEST COORDINATOR

A. **Designated Public Records Request Coordinator.** The designated PRRC for Hamilton County General Government is:

Rheubin M. Taylor
Hamilton County Attorney

B. **Designee within the Hamilton County Attorney's Office.** This individual works for the Hamilton County Attorney's Office, and shall be responsible for managing requests under this Policy:

Dana M. Beltramo
Hamilton County Attorney's Office
625 Georgia Avenue, Suite 204
Chattanooga, TN 37402

Phone: 423-209-6199
Fax: 423-209-6151
Email: PublicRecords@HamiltonTN.gov

The Hamilton County Attorney's Office shall report to the Hamilton County Commission annually regarding Hamilton County General Government's compliance with the TPRA pursuant to this Policy. Additionally, at such annual reporting the Hamilton County Attorney's Office shall make recommendations, if any, for improvement or changes to this Policy, and/or shall present such suggested changes for adoption by the Hamilton County Commission, periodically throughout the year, as necessary to maintain compliance with the appropriate statutes, and serve the public interest.

IV. RESPONDING TO PUBLIC RECORDS REQUESTS

A. Initial Determination: The PRRC shall review public record requests and make an initial determination of the following:

1. If the records requested are described with sufficient specificity to identify them; and
2. The identity of the appropriate Records Custodian of the requested records.

B. Initial Response to Requests. The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):

1. Advise the Requestor of this Policy and the elections made regarding:
 - a. Form(s) required for copies;
 - b. Applicable fees; and
 - c. Aggregation of multiple or frequent requests.
2. If appropriate, deny the request in writing, providing the appropriate ground(s) for such denial as one of the following:

- a. The request lacks specificity;
 - b. An exemption makes the record not subject to disclosure under the TPRA;
 - c. The department, office, or division of Hamilton County General Government to which the request is addressed is not the custodian of the requested records;
 - d. The records do not exist; or
 - e. The Requestor has an outstanding balance from a prior records request.
3. If appropriate, contact the Requestor to see if the request can be narrowed;
4. Forward the records request to the appropriate Records Custodian within Hamilton County General Government;
5. If requested records are in the custody of a Hamilton County Government office that is exempt from this Policy, and the PRRC knows the correct governmental entity, advise the Requestor of the correct governmental entity and PRRC for that entity, if known;

C. Records Custodian: Upon receiving a public records request, a Records Custodian shall:

1. 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 for Hamilton County General Government;
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, a Records Custodian shall, within seven (7) business days from the Records Custodian's receipt of the request, send the Requestor a completed Hamilton County Public Records Request Response Form (hereinafter "HC Response Form"), which is attached as Appendix B to this Policy.;
3. If a Records Custodian denies a public records request, such denial shall be in writing as provided in Section IV. B. 2, above, using the HC 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 HC 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 contact the Requestor concerning the omission and produce the records as quickly as practicable;

6. The PRRC shall receive from the Records Custodian a copy of all written and electronic communications the Records Custodian has with the Requestor.

7. The Records Custodian shall maintain a log of oral/inspection only requests using the Hamilton County General Government Open Records Request Log, which is attached hereto as Appendix C. The Records Custodian shall submit the completed Log to the PRRC not later than close of business the second Monday of each month for the month just ended. If there are no requests during the reporting period, the Records Custodian shall so note on the Log, and submit the Log to the PRRC.

E. Redaction

1. If a record contains confidential information or information that is not open for public inspection, pursuant to Tenn. Code Ann. §10-7-504, or other applicable laws, the Records Custodian shall prepare a redacted copy prior to providing access. Such redacted copy shall be electronically forwarded to the PRCC. If questions arise concerning redaction, the Records Custodian shall coordinate with the PRRC regarding review and redaction of records. The PRRC may consult with the OORC or with the Office of Attorney General and Reporter;

2. Whenever a redacted record is provided, a Records Custodian shall provide the Requestor with the basis for redaction, using the HC Response Form. The basis given for redaction shall be general in nature and not disclose confidential information;

3. The PRRC shall receive from the Records Custodian a copy of all communications the Records Custodian has with the Requestor regarding redaction or any other communication—written or electronic—relative to fulfilling the open records request.

F. Inspection of Records

1. There shall be no charge for inspection of public records;
2. The location for inspection of records within the offices of Hamilton County General Government shall be determined by the Records Custodian of each department, office, or division, or by the appropriate departmental manager;
3. Inspection of records shall generally be available during normal departmental business hours. However, upon notice to the PRCC, departments may limit the hours for inspection of records, require that inspection be by appointment, or may require inspection at an alternate location, as necessary to preclude such inspection from interfering with the department's normal operations. The PRCC or Records Custodian may apprise a Requestor of such limitations, and/or such may be noted on the following site:

<http://www.HamiltonTN.gov/OpenRecords>

G. Duplicates/Copies of Records

1. A Records Custodian shall promptly respond to a public records request for copies in the most economic and efficient manner practicable;
2. Where reasonable, the Records Custodian shall make front-to-back copies/duplicates of the requested records;
3. Copies/duplicates will be available for pickup at a location specified by the Records Custodian, who shall apprise the Requestor by using the HC Response Form;
4. A request for copies/duplicates may not be converted to an inspection only request, in lieu of paying the fees assessed for production of requested records;
5. Upon payment for postage, copies/duplicates made, and retrieving employees' wages after the first hour of retrieval time (exclusive of employee benefits), copies/duplicates will be delivered to the Requestor in person, or to the address provided by Requestor. Such delivery shall be by the United States Postal Service, unless otherwise requested;
6. All copies/duplicates of records that are not of commercial value must be produced by the appropriate department, office, or division personnel designated by either the appropriate Records Custodian or PRCC, 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, etc.

7. Pursuant to Tenn. Code Ann. §10-7-506 (a), where requested records are of commercial value, a Requestor shall be allowed to make extracts of such records using a cell phone, tablet, or portable scanner to. However, the requested records shall at all times remain in the possession and control of the appropriate Records Custodian or PRRC, who may promulgate reasonable rules for making extracts of such records. The Requestor may be charged for the Record Custodian's, or PRRC's, time to retrieve and/or oversee the Requestor's duplication of the requested records.

H. Electronic Copies of Records.

1. A Records Custodian shall promptly respond to a public record request for electronic copies in the most economic and efficient manner practicable;

2. If the requested records are not already in an electronic format, the appropriate Records Custodian may put such requested records into an electronic format, if, so doing, does not require any more time, or expense, than the Records Custodian would spend in making a paper copy/duplicate of the records;

3. Upon payment for the retrieving employees' wages after the first hour of retrieval time, required to either retrieve the electronic records and/or to convert, or prepare, such records to an electronic format:

a. **Small Volume.** Electronic copies that are a small volume (of no more than 25 pieces of paper, back-to-front, i.e., 50 images) will be sent to the Requestor's verified email address.

b. **Large Volume.** Electronic copies that are a large volume (in excess of 25 pieces of paper, back-to-front, i.e., 50 images) 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 website and login information, by which the Requestor shall have a reasonable time period in which to access to the requested electronic copies. In the event the Requester fails to retrieve the requested document(s) within said period and subsequently requests it (or similar documents) again, then the Requester shall be required to pay said charges as before.

4. All copies of records must be produced by the appropriate

department, office or division personnel designated by either the Records Custodian or PRCC, 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, etc.

I. Fees and Charges and Procedures for Billing and Payment

1. Fees and charges for copies of public records shall not be used to hinder access to public records. Accordingly:

a. When fees for copies/duplicates do not exceed Three U.S. Dollars (\$3), calculated as noted herein, the fees may be waived;

b. The first hour of labor required to fulfill a valid records request shall be waived. When time exceeds one (1) hour, such labor shall be calculated by the Records Custodian or 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;¹ multiply the remaining amount of labor for each employee by each employee's hourly wage (exclusive of benefits);

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;

2. The Records Custodian, PRRC, or departmental director may waive fees if such waiver is in the best interest of Hamilton County General Government and for the public good. Under no circumstances will fees associated with aggregated records requests be waived;

3. Records custodians shall provide Requestors with an itemized estimate of the charges using the HC Response Form prior to producing copies of records and may require partial or complete pre-payment of such charges before producing the requested records;

In the event that a Requestor shall agree to an estimated amount, then

¹ If an employee is paid by salary, rather than an hourly wage, that employee's wage for purposes of assessing the amount to be paid by a Requestor shall be determined by dividing the employee's annual salary by the required hours to be worked per year, i.e. an employee who is expected to work a 37.5 hour work week, and receives an annual salary of \$39,000, will be deemed to be paid \$20 per hour.

refuse to pay such amount after records are produced, any department, office, or division of Hamilton County Government—including those departments, offices, or divisions specifically exempted hereunder—may refuse to comply with any further public records requests until the outstanding balance due for all prior records requests is paid in full. See Tenn. Code Ann. § 10-7-503 (vii) (b);

4. Hamilton County has adopted the recommendation of the Office of Open Records Counsel with respect to fees and charges. Accordingly, fees and charges for copies are as follows:

<u>Copy Output Paper Size</u>	<u>Copy Output Color</u>	<u>Fee(s) Per Page</u>
Letter - 8½" x 11"	Black & White	\$0.15
Letter - 8½" x 11"	Color	\$0.50
Legal - 8½" x 14"	Black & White	\$0.15
Legal - 8½" x 14"	Color	\$0.50

5. Electronic access to retrieved, redacted, and non-alterable records may incur a convenience fee. This fee must be paid prior to the Requestor electronically accessing such records. The convenience fee, if any, shall be in addition to any fees assessed to cover the cost of fulfilling the request, as out outlined herein;

6. If an outside vendor is used, the actual costs assessed by the vendor shall be charged to the Requestor;

7. Payment is to be made in cash, by personal or cashier's check, or by credit/debit card to the department(s) that will produce the records, to the extent that the departments(s) accepts such payment methods;

8. Where the estimated cost of producing requested records is expected to exceed One Hundred U.S. Dollars (\$100), such payment must be made before the Records Custodian will undertake to make the requested paper or electronic copies/duplicates;

9. In the event that any Requestor shall have an outstanding balance from a prior request, neither the PRRC, nor any Records Custodian, is obliged to produce or complete a new request until all outstanding fees are paid, even where such fees are owed to a department, office, or division other than the department, office, or division from which the current records are requested. Outstanding fees shall be a valid reason for denial of a public records request under this Policy.

J. Aggregation of Frequent and Multiple Requests

1. Hamilton County, Tennessee, General Government, 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, a group of individuals deemed to be working in concert, or a commercial entity, regardless of whether such requests are made by the parent entity and/or its subsidiary(ies) and/or its employees;

2. The level at which records requests will be aggregated shall be determined on a case by case basis by the appropriate Record Custodian(s), after consulting with the PRCC. Generally, such determination shall be made on the basis of various factors, including, but not limited to: (a) the number of requests in any consecutive thirty (30) day period immediately preceding the request; (b) the volume of materials requested; and (c) the number of departments involved in the request, the repetitiveness of the request, etc.;

3. The PRRC is responsible for making the determination that a group of individuals or commercial entities are working in concert, and will inform the Requestors that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC;

4. Routinely released and readily accessible records excluded from aggregation include, but are not limited to those records available at:

<http://www.hamiltontn.gov/DataServices/Default.aspx>

<http://www.countyclerkanytime.com>

K. Standing Requests: Neither the PRRC nor any Records Custodian shall accept standing requests for access to public records. All requested records must be requested as outlined herein, with each record requested constituting a separate and distinct request.