

# PUBLIC RECORDS POLICY FOR THE DAVIDSON COUNTY CLERK AND MASTER

Pursuant to T.C.A. §10-7-503(g) and Metropolitan Ordinance BL2017-708, the Davidson County Clerk and Master has adopted the following Public Records Policy (“Policy”) for the Clerk and Master’s Office to provide economical and efficient access to public records as provided under the Tennessee Public Records Act (“TPRA”) in T.C.A. §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 T.C.A. §10-7-503(a)(2)(A). Accordingly, the public records of the Clerk and Master’s Office are presumed to be open for inspection unless otherwise provided by law.

Personnel of the Clerk and Master’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 Clerk and Master’s Office, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator (“PRRC”) for the Clerk and Master’s Office or to the Tennessee Office of Open Records Counsel (“OORC”).

Routine public record requests within the ordinary course of business of the Clerk and Master’s Office may be requested directly to the Clerk and Master’s Office and fulfilled immediately without going through the process described in this Policy. This Policy is posted online at <http://chanceryclerkandmaster.nashville.gov/>. A copy may be requested at the Clerk and Master’s Office. This Policy shall be reviewed at least every two years.

## **I. Definitions**

- A. *Confidential Record*: Any record, or part of a record, which is defined by the TPRA, or other state or federal law, as being exempt from public inspection, including, but not limited to, those records listed in T.C.A. §10-7-504.
- B. *Labor*: The time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting and reproducing records.
- C. *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 T.C.A. §10-7-503(a)(1)(A).
- D. *Public Records Request Coordinator (“PRRC”)*: 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 T.C.A. §10-7-503(a)(1)(B). The PRRC may also be a records custodian.
- E. *Records Custodian*: The office, official or employee lawfully responsible for the direct custody and care of a public record. See T.C.A. §10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.

F. *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 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 may be made orally or in writing using the Clerk and Master's Office Public Records Request Form directed to the PRRC at the contact information listed below. If the requester desires responses or written communications from the Clerk and Master's Office to be sent to a preferred mailing or email address, these addresses must be provided by the requester. If the requester does not provide a preferred mailing or email address, then any requests for clarification, responses, or other written communication required by the TPRC in response to requests for inspection only will be sent to the mailing address shown on the proof of Tennessee citizenship submitted by the requester.

C. Requests for copies, or requests for inspection and copies, may be made orally or in writing using the Clerk and Master's Office Public Records Request Form directed to the PRRC at the contact information listed below.

D. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or alternative acceptable form of ID determined by the PRRC) is required as a condition to inspect or receive copies of public records.

E. Certain public information regarding the Clerk and Master's Office and matters pending in the Davidson County Chancery Court are readily available on <http://chanceryclerkandmaster.nashville.gov>. The Clerk and Master's Office reserves the right to waive proof of Tennessee citizenship for copies of information publicly available on <http://chanceryclerkandmaster.nashville.gov>.

F. Prior public records requests and the records provided in response to them, as well as other public records, may be made publicly available on <http://chanceryclerkandmaster.nashville.gov>. The PRRC or records custodian may respond to a request by directing the requester to such publicly available information, if it includes the records responsive to that request. Requesters should note that their public records requests and the information submitted along with them are also public records and may be publicly available unless otherwise protected from disclosure by state or federal law.

## **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 Clerk and Master 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
  - iv. Aggregation of multiple or frequent requests, if applicable
- 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. PRRC will provide the exemption in written denial.
  - iv. The Clerk and Master is not the custodian of the requested record.
  - v. The record does not exist.
- 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 for that entity if known.

3. The designated PRRC is:

a. Name or title: Clerk and Master

b. Contact information:

Mailing/physical address:	Historic Metro Courthouse 1 Public Square, Suite 308 Nashville, TN 37201
Email:	clerkandmasterrecords@jis.nashville.org
Telephone:	615-862-5710
Facsimile:	615-862-5722

#### B. Records Custodian

1. Upon receiving a public records request, a records custodian shall promptly make requested public records available in accordance with T.C.A. §10-7-503. A records custodian may contact the requester to see if the request can be narrowed or clarified. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, Metro Legal/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 or PRRC 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, 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 using the Public Records Request 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 or 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. If appropriate, the records custodian or PRRC should contact the requestor to see if the request can be narrowed.

5. If a records custodian discovers records were omitted in response to a records request, the records custodian or PRRC 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 Metro Legal/counsel or other appropriate parties regarding review and redaction of records.

2. When requested by a requester, a records custodian should provide the requester with a general statement of the basis for redaction within the records provided. 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 open public records unless otherwise provided for under state or federal law.

B. The location for inspection of records within the Clerk and Master's Office should be determined by either the PRRC or records custodian who will advise the requester of the location where these records can be inspected.

C. The PRRC or records custodian may require an appointment for inspection of records during normal business hours and at a mutually agreeable time for the requester or may require inspection of records at an alternate location.

### **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. At the discretion of the records custodian or PRRC, as applicable, and where possible, the responsive records may be emailed, upon payment, to the requester.

C. Copies will be available for pickup, upon payment, at a location specified by the records custodian.

D. Upon payment for postage and copies, copies will be delivered to the requestor's preferred or home address by the United States Postal Service. Additional permitted means of delivery may be utilized at the discretion of the PRRC or records custodian, as appropriate.

E. A requestor is generally not allowed to make copies of records with personal equipment. At the discretion of the records custodian or PRRC, as appropriate, and only as necessary to prevent damage to a record, a requester inspecting records may be allowed to photograph a record with a smart phone, although such photographs of records will not be eligible for certification as certified copies. A requester may not under any circumstance insert a personal flash drive or other storage device into any Metropolitan Government computer.

## **VI. Fees and Charges and Procedures for Billing and Payment**

A. Fees and charges for copies are as follows:

1. \$0.50 per page in accordance with T.C.A. §8-21-401(i)(4). Duplex copies (copies on both sides of a page of paper) are charged as two (2) separate copies.
2. \$5.00 certification per document in accordance with T.C.A. §8-21-401(i)(5) (in addition to copy charge by page).
3. Actual costs assessed by any outside vendor used.

B. A requester may be charged for employee labor that is reasonably necessary to produce the requested copy when the labor time exceeds one (1) hour. Costs are charged based on the hourly wage (not including benefits) of the employee(s). For salaried employees, the hourly wage is determined by dividing the employee's annual salary by the required hours to be worked per year.

C. Requesters will retrieve requested records by hand delivery at the location specified by the records custodian. The requester shall pay the costs at the time of delivery. If the requester requests delivery via the United States Postal Service, or through any other delivery means agreed to by the records custodian or PRRC, costs incurred in delivering the copies, in addition to other permitted fees and charges for the copies, shall be paid before the copies are provided to the requester.

D. Payment may be made by cash, credit/debit card, or money order payable to the Clerk and Master's Office. At the discretion of the PRRC or records custodian, as appropriate, payment may also be by personal or business check payable to the Clerk and Master's Office.

E. Should a requester cancel the public records request, to the extent costs have been incurred by the Clerk and Master's Office, the requester shall be responsible for paying the costs incurred, if the requester agreed in writing to make the payment as set out in this section, and as explained to the requester before the costs were incurred.

F. At the discretion of the PRRC or records custodian, as appropriate, the Clerk and Master's Office may 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 a calendar month (either from an individual or a group of individuals deemed working in concert). The PRRC is responsible for making the determination that a group of individuals is working in concert. The PRRC or the records custodian 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.

