

RESOLUTION NO. 29082

A RESOLUTION ADOPTING A PUBLIC RECORDS POLICY PURSUANT TO TENN. CODE ANN. SECTION 10-7-503(g), EVERY GOVERNMENTAL ENTITY SUBJECT TO THE TENNESSEE PUBLIC RECORDS ACT (“TPRA”) MUST ESTABLISH A WRITTEN PUBLIC RECORDS POLICY PROPERLY ADOPTED BY THE APPROPRIATE GOVERNING AUTHORITY BY JULY 1, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby adopting a public records policy pursuant to Tenn. Code Ann. Section 10-7-503(g), every governmental entity subject to the Tennessee Public Records Act (“TPRA”) must establish a written public records policy properly adopted by the appropriate governing authority by July 1, 2017.

The public records policy is attached hereto and made a part hereof by reference.

ADOPTED: June 27, 2017

/mem



CITY OF CHATTANOOGA

Public Records Policy

Effective: June 27, 2017

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CITY OF CHATTANOOGA

PUBLIC RECORDS POLICY

Purpose:

Pursuant to Tenn. Code Ann. § 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. The policy adopted shall not impose requirements on those requesting records that are more burdensome than state law and shall include:

- The process for requesting access to public records and any required form(s);
- The process for responding to requests, including redaction practices;
- A statement of any fees charged for copies of public records and the procedures for billing and payment; and
- The name or title and contact information of the individual or individuals designated as the Public Records Request Coordinator(s).



CITY OF CHATTANOOGA

PUBLIC RECORDS POLICY

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy (the "Policy") for the City of Chattanooga (the "City") is hereby adopted by the Chattanooga City Council 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 will, at all times during business hours be open for personal inspection by any citizen of this state, and those in charge of the records will 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).

Personnel of the City of Chattanooga will timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the City of Chattanooga, will be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for the City of Chattanooga.

This Policy will be applied consistently throughout all offices, departments, and/or divisions of the City of Chattanooga.

This Policy is available for inspection and duplication in the Office of the City Attorney, 100 E. 11th Street, Suite 200, Chattanooga, TN 37402. Additionally, this Policy can be accessed online at: www.chattanooga.gov/openrecords.

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 ("PRRC"): The individual, or individuals, designated in Section III, A.1 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.
- E. Open Records Center: The City's open records web portal designed for accepting and responding to open record requests.
- F. Open Records Center Account: The individual account assigned to a requestor upon registration with the City's online Open Records Center.

II. Requesting Access to Public Records

- A. In order to ensure Public Record requests are routed to the appropriate Records Custodian and fulfilled in a timely manner, the City encourages all Public Record requests be made to the Public Records Request Coordinator through the City's Open Records Center.

The City's Open Records Center can be accessed online at: www.chattanooga.gov/openrecords.

- B. Using the Tennessee Open Records Request Form A, Public Record requests may also be submitted as follows:
 1. In writing or in person to the PRRC or his/her designee at: Office of the City Attorney, 100 E. 11th Street, Suite 200, Chattanooga, TN 37402.
 2. By telephone to the Office of the City Attorney at: 423-643-8250. If requesting Public Records by telephone, the Requestor must expressly identify themselves as a Requestor as required by TPRA.
 3. By email to: noreply-legal@chattanooga.gov.
 4. By fax to the Office of the City Attorney at: 423-643-8255.
 5. Requests for inspection are not 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 TPRA.
- C. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or government issued ID, with address, is required as a condition to inspect or receive copies of Public Records.

- D. The City will make certain records available online.
- E. Public Record requests from out-of-state governmental agencies will be accepted and filled unless prohibited by an expressed legal exception.

III. Responding to Public Records Requests

A. Public Records Request Coordinator

1. The PRRC will 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 City is the custodian of the records.
2. The PRRC will 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.
3. Within seven (7) business days of the City receiving a Public Records request, the PRRC will acknowledge receipt and take any of the following action(s):
 - a. Make the Public Records available to the Requestor;
 - b. Advise the Requestor that it is not practicable for the Public Records to be made promptly available for inspection and/or copying and furnish the Requestor with the estimated time that will be reasonably necessary to produce the Public Records if not available within seven (7) business days; or
 - c. If appropriate, deny the request in writing and include the basis for the denial.

4. If the request lacks specificity, the PRRC will contact the Requestor to clarify and narrow the request.
5. The PRRC will forward the Public Records request to the appropriate Records Custodian. If the requested Public Records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, then the PRRC may advise the Requestor of the correct governmental entity and PRRC for that entity, if known.
6. The designated PRRC is:
 - a. Public Records/E-Discovery Coordinator
 - b. Contact Information: City of Chattanooga
Office of the City Attorney
100 E. 11th Street
Chattanooga, TN 37402
423-643-8250 (phone)
423-643-8255 (fax)
Noreply-legal@chattanooga.gov

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 Records Custodian may consult with the PRRC. The PRRC may consult with the City Attorney or designee regarding applicable exemptions.
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 Response Form B, based on the form developed by the OORC.
3. If a Records Custodian denies a Public Records request, he or she will deny the request in writing as provided in Section III, 3.c and may use the Public Records Request Response Form B.
4. If a Records Custodian reasonably determines that the 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 Response Form B to notify the Requestor that the 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.

C. Redaction

1. If a record contains confidential information or information that is not open for public inspection, the Records Custodian will prepare a redacted copy prior to providing access. If questions arise concerning redaction, the Records Custodian should coordinate with the PRRC. The PRRC may consult with the City Attorney or designee regarding redactions.
2. Whenever a redacted record is provided, the PRRC must provide the Requestor with the basis for the redaction. The basis given for the redaction will be general in nature and not disclose confidential information.

IV. Inspection of Records

- A. There will be no charge for inspection of Public Records unless the Records Custodian provides the Requestor with an express legal exception.
- B. The location for inspection of Public Records within any office of the City will be determined by either the PRRC or the Records Custodian.
- C. Under reasonable circumstances, the PRRC or Records Custodian may require an appointment for inspection or may require inspection of Public Records at an alternate location. The PRRC or Records Custodian will provide the Requestor with the time, date, and location for inspection.
- D. If a Requestor makes two (2) or more requests to view a Public Record within a six month period and, for each request, the Requestor fails to view the Public Record within fifteen (15) business days of receiving notification that the record is available to view, then the City will not comply with any Public Records request from the Requestor for a period of six (6) months from the date of the second request to view the Public Record, unless the City, in its sole discretion, determines that the failure to view the Public Records was for good cause.

V. Copies of Records

- A. Copies will be available for pickup at the Office of the City Attorney or online at the City's Open Records Center.
- B. Upon payment for postage, copies will be delivered to the Requestor's home address.
- C. A Requestor will not be allowed to make copies of records with personal equipment.
- D. If a Requestor makes a request for copies of a Public Record and, after copies have been produced, the Requestor fails to pay the City the cost for producing such copies, then the City

will not comply with any Public Records request from the Requestor until the Requestor pays for such copies, provided that the Requestor was provided with an estimated cost for producing the copies in accordance with this Policy prior to producing the copies and the Requestor agreed to pay the estimated cost for such copies.

VI. Fees and Charges and Procedures for Billing and Payment

- A. Records Custodians will 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. 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 (1) hour.
 - 5. Payment in advance will be required when costs are estimated to exceed \$20.00.
 - 6. If an outside vendor is used, the actual costs will be assessed by the vendor.
- C. Payment is to be made in cash or by personal check payable to the City of Chattanooga and be presented to the PRRC or designee at the Office of the City Attorney. Additionally, payment can be made online by credit card at the City's Open Records Center.
- D. Aggregation of Frequent and Multiple Requests
 - 1. Fees associated with aggregated record requests will not be waived.
 - 2. The City 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 a calendar month (either from a single individual or a group of individuals deemed working in concert).
 - 3. If more than four (4) requests are received within a calendar month.
 - a. Record requests will be aggregated at the Records Custodian level. A Records Custodian having the right to aggregate requests must inform the Requestor(s) of the determination to aggregate.

- b. If requirements for aggregation are met, the Records Custodian is no longer required to deduct the one (1) hour free labor threshold.
- c. The PRRC is responsible for making the determination that a group of individuals are 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.

VII. Policy Amendments and Addendums

If appropriate, the PRRC(s) will advise the City Attorney or designee about the City's implementation of this Policy and will make recommendations, if any, for improvements and/or amendments.

The City Attorney or designee will review and approve changes to this Policy as needed, with changes reported to the Chattanooga City Council and Mayor.

The following forms will be amended periodically and are hereby incorporated by reference and appended hereto:

- A. **Tennessee Open Records Request Form A** – The items in the appended form will be requested in the open records web portal found on the City's Open Records Center when a Requestor submits any Public Records request to the City.
- B. **Public Records Request Response Form B** – A completed version of this form will be provided to any Requestor through their Open Records Center account.
- C. **Office of Open Records Counsel's Schedule of Reasonable Charges**
- D. **Office of Open Records Counsel's Reasonable Charges for Frequent and Multiple Requests**

Tennessee Open Records Request

FORM A

**Please show Photo ID issued by governmental entity including customers' address (example: drivers' license). List form of identification provided:*

(PLEASE PRINT ON THIS FORM)

***Today's Date:** _____

Customer Information

***Full Name:** _____

(First and Last Name)

***Mailing Address:** _____

(No P.O. Box)

***City, State and Zip Code:** _____

***Email Address (*):** _____

***Telephone or Cell Number:** _____

***Driver License Number and State:** _____

***Date of Birth** _____

***Type of Record(s) Requested:** _____

(Incident Report, Arrest Report, Inspection Report, Documents from the City of Chattanooga)

***Describe the Record(s) requested:** _____

***Report Number or Tracking Number (s):** _____

(Example - Tracking Number #16-012345)

***Report Date:** _____

***Location:** _____

(Business or Street Name)

***Victim(s) Name & Date of Birth** _____

***Suspect(s) Name & Date of Birth** _____

Property Address _____

(For Inspection Reports Only)

Preferred Method to Receive Records _____

***** Charges for producing copies of Public Records are .15 ¢ (black & white copies) and 50 ¢ (for color copies) per page. CD copies are \$3.00 dollars per disk.**

Make Copy DL



PUBLIC RECORD REQUEST RESPONSE FORM
City of Chattanooga

Office of Open Records | 100 East 11th Street, Suite 200 | Chattanooga TN 37402

Dear _____ :

On _____, 20____, our office received your records request for copies of the following records:

In response to your records request, our office is taking the action(s)¹ indicated below:

- The public record(s) responsive to your request will be made available for inspection:
Location: _____
Date & Time: _____
- Copies of public record(s) responsive to your request are:
 - Attached;
 - Available for pickup at the following location: _____
 - Being delivered via: USPS First-Class Mail, Upload on Public Records Center Account
 - Other: _____
- Your request is denied on the following grounds:
 - Your request was not sufficiently detailed to enable identification of the specific requested record(s). You need to provide additional information to identify the requested record(s).
 - No such record(s) exists or this office does not maintain record(s) responsive to your request.
 - No proof of Tennessee citizenship was presented with your request. Your request will be reconsidered upon presentation of an adequate form of identification.
 - You are not a Tennessee citizen.
 - You have not paid the estimated copying/production fees.
 - The following state, federal, or other applicable law prohibits disclosure of the requested records: _____
- It is not practicable for the records you requested to be made promptly available for inspection and/or copying because:
 - It has not yet been determined that records responsive to your request exist; or
 - The office is still in the process of retrieving, reviewing, and/or redacting the requested records.

The time reasonably necessary to produce the record(s) or information and/or to make a determination of a proper response to your request is: _____

If you have any additional questions regarding your record request, please contact Demetria Patton at (423) 643-8256.

Regards,

Wade A. Hinton
City Attorney / Chief Legal Officer
(423) 643-8250

¹ If all requested records do not have the same response, multiple responses should be indicated as appropriate.



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF OPEN RECORDS COUNSEL**

SCHEDULE OF REASONABLE CHARGES

PURPOSE:

Pursuant to Tenn. Code Ann. § 8-4-604(a)(1), the Office of Open Records Counsel ("OORC") is required to establish a schedule of reasonable charges a records custodian may use as a guideline to charge citizens requesting copies of public records. Additionally, Tenn. Code Ann. § 10-7-503(g) requires each governmental entity subject to the Tennessee Public Records Act ("TPRA") to establish a written public records policy that includes a statement of any fees charged for copies of public records and the procedures for billing and payment. Accordingly, the following policy sets forth general guidelines for records custodians when assessing reasonable charges associated with record requests under the TPRA.

POLICY:

I. General Considerations

- A. Records custodians may not charge for inspection of public records except as provided by law.
- B. The following schedule of reasonable charges should not be interpreted as requiring records custodians to impose charges for copies of public records. Charges for copies of public records must be pursuant to a public records policy properly adopted by the governing authority of a governmental entity. See Tenn. Code Ann. § 10-7-503(g) and § 10-7-506(a).
- C. Application of an adopted schedule of charges shall not be arbitrary. Additionally, excessive fees and other rules shall not be used to hinder access to public records.
- D. A records custodian may reduce or waive charges, in whole or in part, in accordance with the governmental entity's public records policy.
- E. A records custodian may require payment for copies before producing copies of the records.
- F. The TPRA does not distinguish requests for inspection of records based on intended use, be it for research, personal, or commercial purposes. Likewise, this Schedule of Reasonable Charges does not make a distinction in the charges assessed based on the purpose of a record request. However, other statutory provisions, such as Tenn. Code Ann. § 10-7-506(c), enumerate fees that may be assessed when specific documents are requested for a specific use. Any distinctions made, or waiver of charges permitted, based upon the type of records requested should be expressly set forth and permitted in the adopted public records policy.

- G. Records custodians shall provide a requestor an estimate of reasonable costs to provide copies of requested records.

II. Per Page Copying Charges

- A. For each standard 8½" x 11" or 8½" x 14" copy produced, a records custodian may assess a per page charge of up to 15 cents (\$0.15) for black and white copies and up to 50 cents (\$0.50) for color copies. If producing duplex (front and back) copies, a charge for two separate pages may be imposed for each single duplex copy.
- B. If the charge for color copies is higher than for black and white copies, and a public record is maintained in color but can be produced in black and white, the records custodian shall advise the requestor that the record can be produced in color if the requestor is willing to pay a charge higher than that of a black and white copy.
- C. If a governmental entity's actual costs are higher than those reflected above, or if the requested records are produced on a medium other than 8½" x 11" or 8½" x 14" paper, the governmental entity may develop its own charges. The governmental entity must establish a schedule of charges documenting "actual cost" and state the calculation and reasoning for its charges in a properly adopted policy. A governmental entity may charge less than those charges reflected above. Charges greater than 15 cents (\$0.15) for black and white copies and 50 cents (\$0.50) for color copies can be assessed or collected only when there is documented analysis of the fact that the higher charges represent the governmental entity's actual cost of producing such material, unless there exists another basis in law for such charges.

III. Additional Charges

- A. When assessing a fee for items covered under this section, records custodians shall utilize the most economical and efficient method of producing the requested records.
- B. A records custodian may charge its actual out-of-pocket costs for flash drives or similar storage devices on which electronic copies are provided. When providing electronic records, a records custodian may charge per-page costs only when paper copies that did not already exist are required to be produced in responding to the request, such as when a record must be printed to be redacted.
- C. It is presumed copies of requested records will be provided in person to a requestor when the requestor returns to the records custodian's office to retrieve the records.
- D. If a requestor chooses not to personally retrieve records and the actual cost of delivering the copies, in addition to any other permitted charges, have been paid by the requestor or otherwise waived pursuant to the public records policy, then a records custodian is obligated to deliver the copies via USPS First-Class Mail. It is within the discretion of a records custodian to agree to deliver copies of records through other means, including electronically, and to assess the costs related to such delivery.
- E. If it is not practicable or feasible for the records custodian to produce copies internally, the records custodian may use an outside vendor and charge the costs to the requester.

- F. If a records custodian is assessed a charge to retrieve requested records from archives or any other entity having possession of requested records, the records custodian may recover from the requestor the costs assessed for retrieval.

IV. Labor Charges

- A. A records custodian shall utilize the most cost efficient method of producing requested records. Accordingly, a records custodian should strive to utilize current employees at the lowest practicable hourly wage to fulfill public records requests for copies.
- B. "Labor" is the time (in hours) reasonably necessary to produce requested records, including the time spent locating, retrieving, reviewing, redacting, and reproducing records.
- C. "Labor threshold" is the first (1st) hour of labor reasonably necessary to produce requested material(s). A governmental entity may adopt a higher labor threshold than one (1) hour. A records custodian is only permitted to charge for labor exceeding the labor threshold established by the governmental entity.
- D. "Hourly wage of an employee" is based upon the base salary of the employee and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee's annual salary by the required hours to be worked per year. For example, an employee who is expected to work a 37.5 hour workweek and receives \$39,000 in salary on an annual basis will be deemed to be paid \$20 per hour.
- E. In calculating labor charges, a records custodian should determine the total amount of labor for each employee and subtract the labor threshold from the labor of the highest paid employee(s). The records custodian should then multiply the amount of labor for each employee by each employee's hourly wage to calculate the total amount of labor charges associated with the request.

Example:

The hourly wage of Employee A is \$15.00. The hourly wage of Employee B is \$20.00. Employee A spends two (2) hours on a request. Employee B spends two (2) hours on the same request. The labor threshold is established at one (1) hour. Since Employee B is the highest paid employee, the labor threshold will be applied to the time Employee B spent producing the request. For this request, \$50.00 could be charged for labor. This is calculated by taking the number of hours each employee spent producing the request, subtracting the threshold amount, multiplying that number by the employee's hourly wage, and then adding the amounts together (i.e. Employee A (2 x \$15.00) + Employee B (1 x \$20.00) = \$50.00).

*Submitted to ACOG: November 8, 2016.
Effective: January 20, 2017*



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF OPEN RECORDS COUNSEL**

REASONABLE CHARGES FOR FREQUENT AND MULTIPLE REQUESTS

PURPOSE:

Tenn. Code Ann. § 8-4-604(a)(2) requires the Office of Open Records Counsel ("OORC") to establish a policy related to reasonable charges a records custodian may charge for frequent and multiple requests for public records pursuant to the Tennessee Public Records Act ("TPRA"), Tenn. Code Ann. § 10-7-501, et seq. Accordingly, the following policy sets forth guidelines for assessing reasonable charges associated with the aggregation of multiple and frequent record requests by allowing records custodians to charge for labor and costs that may otherwise be waived when responding to a single record request.

It is within the discretion of each governmental entity to charge for frequent and multiple record requests. Any decision to charge should be consistent with the Schedule of Reasonable Charges promulgated by the OORC and reflected in the governmental entity's public records policy.

POLICY:

I. Aggregation Policy

- A. Aggregation, as well as excessive fees and other rules, shall not be used to hinder access to public records. A records custodian may reduce or waive, in whole or in part, any charge in accordance with the governing entity's public records policy.
- B. A governmental entity may include in its public records policy a rule whereby multiple or frequent records requests are aggregated for purposes of calculating charges for copies or duplicates of public records.
- C. A governmental entity may aggregate multiple public record requests made by a single requestor. A governmental entity may also aggregate public record requests made by multiple requestors, if the public records request coordinator determines the requestors are acting in concert with each other or as the agents of another person, entity, or organization.
- D. A governmental entity's public record policy shall indicate the number of requests within a calendar month that will trigger aggregation; that amount must be no lower than four (4) requests. This amount is the aggregation threshold.
- E. A governmental entity's public record policy shall specify the level at which records requests will be aggregated, whether for the entire governmental entity or by agency, department, office, or otherwise.

II. Charges for Aggregated Requests

- A. Once a records custodian reaches the aggregation threshold, the records custodian is no longer required to deduct the labor threshold set forth in the Schedule of Reasonable Charges or any other minimum charge per request threshold that would ordinarily be waived.
- B. When the aggregation threshold is met, a records custodian choosing to aggregate requests must inform the requestor(s) of the determination to aggregate and of the right of the requestor(s) to appeal the records custodian's decision to aggregate to the OORC.
- C. Requests for current records that are routinely released and readily accessible, such as agendas or meeting minutes, are exempt from this policy.
- D. Disputes regarding aggregation shall be brought to the OORC.

Submitted to ACOG: November 8, 2016
Effective: January 20, 2017