

DISCUSSION OF PUBLIC RECORDS POLICY

SPEAKING: John Beaty, County Attorney

RESOLUTION #061917-19

TO ADOPT A PUBLIC RECORDS POLICY FOR SCOTT COUNTY GOVERNMENT

WHEREAS, Tenn. Code Ann. § 10-7-503(g), 2016 Public Chapter 722, requires county entities to adopt a public records policy by July 1, 2017; and

WHEREAS, Tenn. Code Ann. § 8-4-604(a)(4), 2016 Public Chapter 722, requires the office of open records counsel (OORC) to establish a model public records policy; and

WHEREAS, the OORC's model public records policy requires county entities to make certain selections under the policy; and

WHEREAS, Scott County desires to adopt the OORC's model public records policy with the necessary selections;

NOW THEREFORE, BE IT RESOLVED by the Scott County legislative body meeting in regular session on this 19th day of June, 2017, that:

SECTION 1. The model public records policy developed by the OORC with the selections and revisions chosen by Scott County is attached to this resolution and is hereby adopted as the Public Records Policy for Scott County.

SECTION 2. County departments may adopt separate policies or, by default, accept this policy as the public records policy for the entity. Unless a separate policy is adopted by a county department, this policy shall apply to each county department.

SECTION 3. This resolution shall take effect July 1, 2017.

ADOPTED this 19th day of June, 2017.

APPROVED:

ATTEST:





Dale Perdue

Pat Phillips

Scott County Mayor

Scott County Clerk

**PUBLIC RECORDS POLICY
FOR
SCOTT COUNTY, TENNESSEE**

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for SCOTT COUNTY, TENNESSEE is hereby adopted 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 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, unless otherwise provided by state law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the county are presumed to be open for inspection unless otherwise provided by law.

Personnel of SCOTT COUNTY, TENNESSEE (hereinafter referred to as "Scott County") 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 Scott County, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for Scott County or to the Tennessee Office of Open Records Counsel ("OORC").

This Policy is available for inspection and duplication in the office of the Scott County Mayor. This Policy is posted online at WWW.ScottCounty.com. This Policy shall be reviewed every two years.

This Policy shall be applied consistently throughout the various offices, departments, and/or divisions of Scott County except the following offices, departments, or divisions, which have separate public records policies:

- a. Register of Deeds
- b. _____
- c. _____

I. Definitions:

- A. Records Custodian: The official or employee lawfully responsible for the direct custody and care of a public record within a specific county department. 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: 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 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.

II. Requesting Access to Public Records

- A. Public record requests shall be made to the Public Records Request Coordinator ("PRRC") or his/her designee [or via online submission] 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 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.
- C. Requests for inspection may be made in writing [using the attached Form ___] at the Office of the Scott County Mayor at 2845 Baker Highway, or P.O. Box 180, Huntsville, Tennessee 37756.
- D. Requests for copies, or requests for inspection and copies, shall be made in writing [using the attached Form ___] at 2845 Baker Highway, or P.O. Box 180, Huntsville, Tennessee 37756.
- E. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or alternative acceptable form of ID) is required as a condition to inspect or receive copies of public records.

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 Governmental Entity 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 threshold and waivers, if applicable); 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 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. (Provide the exemption in written denial)
 - iv. The Governmental Entity is not the custodian of the requested records.
 - v. The records do not exist.
 - c. If appropriate, contact the requestor to see if the request can be narrowed.
 - d. Forward the records request to the appropriate records custodian in the appropriate department.
 - e. 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(s) is(are):
 - a. Name or title: Mary Ann Perdue, Administrative Assistant, Scott County Mayor's Office.
 - b. Contact information: 2845 Baker Highway, P.O. Box 180, Huntsville, Tennessee 37756; phone no.: 423-663-2000, fax no.: 423-663-3803.
4. The PRRC(s) shall report to the governing authority on an annual basis about the Governmental Entity's compliance with the TPRA pursuant to this Policy and shall make recommendations, if any, for improvement or changes to this Policy.

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 custodian may consult with the PRRC, 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 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 as Form __, 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 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 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.

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 counsel or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with counsel or the OORC.
2. Whenever a redacted record is provided, a records custodian should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

III. **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 Scott County should be determined by either the PRRC or the records custodian.
- C. Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location.

IV. **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. Copies will be available for pickup at a location specified by the PRRC or the records custodian.
- C. Upon payment for postage, copies will be delivered to the requestor's address by the United States Postal Service, UPS or Federal Express.
- D. A requestor will be allowed to make copies of records with personal equipment only with permission of the PRRC or the records custodian.

V. **Fees and 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.
- B. Records custodians may provide requestors with an itemized estimate of the charges [using Form __] prior to producing copies of records and may require pre-payment of such charges before producing requested records.
- C. When fees for copies and labor do not exceed \$25.00, the fees may be waived. Requests for waivers for fees above \$25.00 must be presented to the PRRC or the records custodian, who is authorized to determine if such waiver is in the best interest of the department and for the public good. Fees associated with aggregated records requests will not be waived.
- D. 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. Actual costs of CD disks, flash drives or other recorded storage devices.
 4. Labor when time exceeds 1.0 hours @ \$10/ hour.
 5. If an outside vendor is used, the actual costs assessed by the vendor.
 6. Actual costs of postage, when applicable.
- E. Payment is to be made in cash, by personal or cashier's check, or by credit card payable to Scott County or as otherwise directed by the PRRC.
- F. Payment in advance will be required when costs are estimated to exceed \$50.00.
- I. Aggregation of Frequent and Multiple Requests
1. Scott will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than (4) requests are received within a calendar month, either from a single individual or a group of individuals deemed working in concert.
 2. [If aggregating]:
 - a. 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.
 - b. Routinely released and readily accessible records may be excluded from aggregation s determined by the PRRC.

THIS POLICY SHALL BECOME EFFECTIVE ON JULY 1, 2017 FOR DEPARTMENTS OF SCOTT COUNTY WHO HAVE NOT ADOPTED THEIR OWN PUBLIC RECORDS POLICY.

Motion by Day, seconded by Newman, to approve the above Resolution as presented.

Voting AYE: Brown, Burke, Buttram, Chadwell, Cross, Day, Jeffers, Lyles, McBroom, Newman, Phillips, Slaven.

Voting NAY: NONE

ABSENT: Newport, Russ.

Motion Carried.