

LOUDON COUNTY COMMISSION

SPECIAL CALLED MEETING

Monday, July 17, 2017

5:30 pm

- 1. Call to Order**
- 2. General Public Comments**
- 3. Resolution Concerning Tellico Village POA Lots**
- 4. Resolution Concerning Loudon County Open Records Policy**
- 5. Loudon County Commissioner, David Meers**
 - A. Bonds and Notaries**
- 6. Adjournment**

PUBLIC RECORDS POLICY
FOR
LOUDON COUNTY GOVERNMENT

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for Loudon County Government (“Loudon County”) is hereby adopted by the Loudon County Commission in order to provide economical and efficient access to public records as provided under the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-501, *et seq.*

The Tennessee Public Records Act (“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 Loudon County are presumed to be open for inspection unless an exemption is otherwise provided by law.

Personnel of Loudon County shall provide access and assistance in a timely and efficient manner to persons requesting access to 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 Loudon County, shall be protected as provided by current law. Concerns about the provisions or enforcement of this Policy should be addressed to the Public Records Request Coordinator or to the Tennessee Office of Open Records Counsel.

This Policy is available for inspection and duplication in the Loudon County Mayor’s Office, and is posted on the web at www.loudoncounty-tn.gov. This Policy shall be reviewed every two years.

This Policy shall be applied consistently throughout the various offices, departments, and/or divisions of Loudon County as listed below with the Public Records Request Coordinator (“PRRC”) for each:

- a. All County offices and departments reporting to the County Mayor and not otherwise listed below – Mayor’s Administrative Assistant is the PRRC
- b. Sheriff’s Office – Sheriff is the PRRC
- c. Trustee – Trustee is the PRRC
- d. Register of Deeds – Register of Deeds is the PRRC
- e. Property Assessor – Property Assessor is the PRRC
- f. County Clerk – County Clerk is the PRRC
- g. Circuit, Criminal, Sessions, Juvenile, and Probate Court – The Court Clerk is the PRRC
- h. Clerk and Master – Clerk and Master is the PRRC
- i. Highway Department – Highway Superintendent is the PRRC
- j. Election Commission – Administrator of Elections is the PRRC
- k. Juvenile Services – Director of Juvenile Services is the PRRC

As of the date of this Policy, no offices, departments or divisions of Loudon County have separate public record policies. All offices, departments and divisions have indicated their adoption of this Policy for compliance with their duties under the TPRA.

The designated Records Custodian will respond promptly to public record requests upon proof of Tennessee citizenship by presentation of a validly issued Tennessee driver's license or other proper identification issued by a governmental entity to establish Tennessee citizenship.

I. Definitions

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.

Public records: As defined in Tenn. Code Ann. § 10-7-503(a)(1)(A): "public record or records" means 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.

Public records request coordinator: The individual, or individuals, identified in Section II, Paragraph 2 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.

Redacted record: A public record otherwise open for public inspection from which protected or confidential information is removed or made obscured prior to release or inspection.

Requestor: A Tennessee citizen requesting access to a public record, whether inspection or duplication.

II. Making Public Records Requests

- A. All public record requests, other than requests listed in Section B of this section, shall be made to a Public Records Request Coordinator ("PRRC") or his/her designee in order to ensure public record requests made pursuant to the TPRA are routed to the appropriate records custodian and fulfilled in a timely manner.

1. Requests for inspection shall be made to the Loudon County Mayor's Office at 100 River Road, Suite 103, Loudon, Tennessee 37774. If by phone, the request should be made to 865-458-4664. The request can also be sent by e-mail to publicrecordrequests@loudoncounty-tn.gov or by fax to 865-458-6508.

2. Requests for copies (or inspection and copies) shall be made in writing using the attached form titled "Public Records Request Form." Fax and e-mail submissions sent to the above contact information are accepted in addition to mailed or hand delivered written requests.

- B. When the public records request relates to a document that an elected official's office is required by statute to maintain, the request shall be made to the elected official's office as records custodian. If such a public records request is made to the County's Public Records Request Coordinator, the Mayor's Administrative Assistant, the PRRC will direct the request to the appropriate elected official. Those offices are:

Sheriff's Office – 865-986-4823
Trustee – 865-458-3103
Register of Deeds – 865-458-2605
Property Assessor – 865-458-2059
County Clerk – 865-458-3314
Circuit Court Clerk – 865-458-2042
Clerk and Master – 865-458-2630
Highway Department – 865-458-6940
Election Commission – 865-458-2560
Juvenile Services – 865-986-8696

In such cases, the elected official, as the records custodian for the record, will respond to the request in the normal course of business. For example, a request for a copy of a pleading in a Circuit Court matter will be directed to the Circuit Court Clerk or a copy of a deed will be directed to the Register of Deeds in the normal course of business, and the costs of copies will be determined by applicable state law rather than this Policy. In addition, requests for copies of files or documents maintained by the Sheriff's Office will be handled directly by the Sheriff's Office in accordance with the Tennessee Public Records Act, including its relevant exceptions under the Tennessee Rules of Criminal Procedure and appellate precedent.

III. Responding to Public Records Requests

A. Public Record Request Coordinator

- I. A PRRC shall review public record requests and make an initial determination of the following:
 - a. If the requestor has 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 requested.
2. The PRRC shall acknowledge receipt of the request and take the following appropriate action(s):
 - a. Advise the requestor of this Policy and the determinations made by Loudon County regarding:

- i. Citizenship
 - ii. Form(s) required for copies
 - iii. Fees (and if labor, threshold established) (Waivers if applicable)
 - iv. Aggregation;
 - b. Deny the request in writing if an appropriate ground applies, such as, but not limited to, the following:
 - i. Requestor is not a Tennessee citizen;
 - ii. Request lacks specificity (offer to assist in clarification);
 - iii. Exemption makes the record not subject to disclosure under the TPRA (provide the exemption in the denial);
 - iv. Loudon County is not the custodian of the requested records.
 - 1. If the records relate to another governmental entity and the PRRC is aware of the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity, if known.
 - c. If appropriate, contact the requestor to see if request can be narrowed.
 - d. Forward the records request to the appropriate records custodian and advise the requestor of such action.
3. The designated PRRC for Loudon County is:
- a. Name or title: Anita Green, current Administrative Assistant to the Loudon County Mayor
 - b. Contact Information: Loudon County Mayor's Office, 100 River Road, Suite 103, Loudon, Tennessee 37774. Telephone Number: 865-458-4664. E-mail - greena@loudoncounty-tn.gov. Fax Number: 865-458-6508.

B. Records Custodian

- 1. Upon receiving a public records request, a records custodian shall make requested open public records available as promptly as practicable in accordance with Tenn. Code Ann. § 10-7-503.
- 2. If it is not practicable for a records custodian to promptly provide requested records because additional time is necessary to determine whether the requested records exist, to gain access to records, to determine whether the records are open, 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 records production form based on the form developed by the Office of Open Records Counsel, attached hereto and titled "Public Records Request Form."
- 3. If a records custodian denies a public record request, he or she shall deny the request in writing using the attached Form titled "Public Record Request Response Form" and provide the ground(s) for denial, including, but not limited to the following:
 - a. Requestor is not a Tennessee citizen;
 - b. Request lacks specificity (offer to assist in clarification);
 - c. Exemption makes the record not subject to disclosure under the TPRA (provide the exemption in the denial); or

- d. Loudon County is not the custodian of the requested records.
 - i. If the records relate to another governmental entity and the records custodian is aware of the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity, if known.
4. If a records custodian reasonably determines production of records should be segmented because the records request requires production of a large volume of records or additional time is necessary to prepare the records for access, the records custodian shall 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 shall 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 necessary, the records custodian shall coordinate with the county attorney for review and redaction of records. The records custodian and the PRRC may also consult with the Office of Open Records Counsel.
2. Whenever a redacted record is provided, records custodians shall provide the requestor with the basis for redaction. The basis given for redaction shall not disclose confidential information. A records custodian is not required to produce a privilege log.

IV. Inspection of Records

1. There is no charge for inspection of open public records.
2. The location for inspection of records within the offices of the Loudon County shall be specified by the records custodian.
3. A records custodian may require an appointment for inspection or may require inspection of records at an alternate location under reasonable circumstances. The records custodian will set such an appointment for inspection after receiving a request for inspection.

V. Copies of Records

1. Copies will be available for pickup at the location specified by the records custodian.
2. Upon payment for costs of postage, copies can be delivered to the requestor's home address by US Postal Service.
3. A requestor will be allowed to make copies of records with personal equipment. The use of a personal electronic storage device to download copies of documents will be permitted only if the use of such devices are allowed by the individual PRRC and only if the requestor using the device can warrant and guarantee that the device does not contain any viruses, malware, etc. that may affect the County's technological resources.
4. A records custodian shall respond to a public record request for copies in the most economic and efficient manner practicable.

VI. Fees and Charges

A. Fee Schedule

1. Records custodians in offices where fees are set by state law will charge the copy costs set out by the applicable governing statute.
2. Otherwise, a requestor will be charged all actual costs in the production of requested records, including copy charges, any special expenses incurred in the production and mailing of the records and the hourly wages of employees reasonably necessary to produce the requested information.
3. Prior to producing copies of records, a records custodian shall provide requestors with an estimate of the charges (itemized by per page costs, labor, and other) to be assessed.
4. Except for fees as described in number 1 of this section, fees and charges for copies are as follows (but no more than the safe harbor amount authorized by the OORC Schedule of Reasonable Charges unless a higher charge can be documented):
 - a. \$0.15 per page for letter and legal sized B&W copies;
 - b. \$0.50 per page for letter and legal sized color copies.
 - c. Labor will be charged when time exceeds one (1) hour. If multiple employees work on responding to the request, the cost of labor will be charged based on the current hourly rate for the employees responding to the request, with the exception of the first hour of work performed by the highest paid employee working on responding to the request.
 - d. If an outside vendor is used, the actual costs assessed by the vendor.
5. Payment is to be made by cash or check payable to Loudon County, Tennessee presented to the records custodian or, if directed by the records custodian, to the Mayor's Administrative Assistant.
6. Payment in advance will be required when costs are estimated to exceed \$50.00.

B. Aggregation Policy

Loudon County follows the OORC's Schedule of Reasonable Charges and has adopted the following 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.

Frequent and Multiple Requests for Public Records

For the purposes of this Fee Schedule, the level of aggregation will be County department and office-wide. When the total number of requests made by a requestor within a calendar month exceeds 4, a records custodian will begin to charge the requestor a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requestor that the aggregation limit has been met. Requests for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, are exempt from this policy. Disputes as to aggregation shall be brought to the Office of Open Records Counsel. Additionally, a records custodian may aggregate the total number of public records requests made by a requestor and by any other individual, if the records custodian reasonably believes the requestor to be acting in concert with or as the agent of another person, entity or organization. A records custodian choosing to aggregate requests by multiple requestors must inform the requestors of the determination to aggregate and that they have the right to appeal the decision to aggregate to the Office of Open Records Counsel.

PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access open public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist.

To:

[Insert Governmental Entity Name and Name and Contact Information for the Public Records Request Coordinator]

From:

[Insert Requestor's Name and Contact Information (include an address for any TPRA required written response)]

Is the requestor a Tennessee citizen? Yes No

Request: Inspection (The TPRA does not permit fees or require a written request for inspection only.¹)

Copy/Duplicate

If costs for copies are assessed, the requestor has a right to receive an estimate. Do you wish to waive your right to an estimate and agree to pay copying and duplication costs in an amount not to exceed \$ _____? If so, initial here: _____.

Delivery preference: On-Site Pick-Up USPS First-Class Mail
 Electronic Other: _____

Records Requested:

Provide a detailed description of the record(s) requested, including: (1) type of record; (2) timeframe or dates for the records sought; and (3) subject matter or key words related to the records. Under the TPRA, record requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your record request must provide enough detail to enable the records custodian responding to the request to identify the specific records you are seeking.

Signature of Requestor

Date Submitted

Signature of Public Records Request Coordinator and Date Received

¹ Note, Tenn. Code Ann. § 10-7-504(a)(20)(C) permits charging for redaction of private records of a utility.

PUBLIC RECORD REQUEST RESPONSE FORM

Governmental Entity Name and Address: _____

Date: _____

Requestor's Name and Contact Information: _____

In response to your records request received on _____ our office is taking action(s)¹ indicated below: *[Date Request Received]*

- 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 Electronically 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 [Records Custodian or Public Records Request Coordinator].

Sincerely,

[Name, Title, and Contact Information]

¹ If all requested records do not have the same response, so indicate.

ESTIMATE AND INVOICE FOR COPIES OR DUPLICATES

Estimate

- a. Number of pages (or records)
b. Acceptable forms of payment: Cash Check Other
c. Estimate of total cost
d. Prepayment

Invoice: No change from Estimate
Number of pages (or records)

- Total cost
a. Per page amount
b. Labor amount to produce the copy
c. Programming cost to extract information requested
d. Cost for delivery for other than on-site pick-up
e. Payment

Signature

Date

NOTICE OF AGGREGATION OF MULTIPLE REQUESTORS

LOUDON COUNTY GOVERNMENT

(Insert Date)

Records Custodian: _____
(Name of Governmental Entity, Office or Agency)

Employee/official authorizing aggregation: _____
(Name and title)

Address and phone number: _____

Other Offices or Custodians included in aggregation: _____

(_____) of Requestors being aggregated:
(Number)

Requestor's name, address and contact information:

Requestor's name, address and contact information:

Requestor's name, address and contact information:

Requestor's name, address and contact information:

Requestor's name, address and contact information:

Requestor's name, address and contact information:

Explanation of basis for aggregation and description of scope (records included/excluded):

Requestors have been notified that a properly adopted aggregation policy exists, that the decision to aggregate has been made, and that there is a right to appeal the decision to the Office of Open Records Counsel.

Signature of Records Custodian, date

Signature of Requestor, date

Signature of Requestor, date

Signature of Requestor, date

Signature of Requestor, date