

**RULES
OF
TENNESSEE DEPARTMENT OF TOURIST DEVELOPMENT**

**CHAPTER 1670-07-01
ACCESS TO THE PUBLIC RECORDS OF THE DEPARTMENT OF TOURIST DEVELOPMENT**

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1670-07-01-.01 PURPOSE AND SCOPE OF AUTHORITY.

The Tennessee Public Records Act ("TPRA"), T.C.A. §§ 10-7-501 et seq., requires each state agency to provide public access to agency records, unless exempted by the TPRA. This chapter establishes the process and procedure through which the Department of Tourist Development shall provide access to public records, pursuant to T.C.A. § 10-7-503.

- (1) Department of Tourist Development public records shall, at all times during regular business hours from 8:00 AM to 4:30 PM Central Time, Monday through Friday, except for holidays and/or state issued office closures, 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 provided by law. Appointments for viewing are required and are to be done through the contact mechanisms of Rule 1670-07-01-.03.
- (2) The Department of Tourist Development is not required to sort through files to compile information or to create or recreate a record that does not exist.

Authority: T.C.A. §§ 4-4-103 and 10-7-503. **Administrative History:** Original rules filed March 13, 2019; effective June 11, 2019.

1670-07-01-.02 DEFINITIONS.

- (1) "Records Custodian" means any office, official or employee of the Department of Tourist Development lawfully responsible for the direct custody and care of a public record. The Records Custodian is not necessarily the original preparer or receiver of the record.
- (2) "Public 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 of characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency, not otherwise protected by law or exempt from disclosure under the TPRA; and does not include the device or equipment, including, but not limited to, a cell phone, computer, or other electronic or mechanical device or equipment, that may have been used to create or store a public record.
- (3) "Public Records Request Coordinator" or "PRRC" means any individual within the Department of Tourist Development whose responsibility it is to ensure that public records requests are routed to the appropriate records custodian and fulfilled in accordance with the TPRA. The Public Records Request Coordinator may also be a records custodian.
- (4) "Requestor" means a person seeking access to a public record, whether it is for inspection or duplication.

(Rule 1670-07-01-.02, continued)

Authority: T.C.A. §§ 4-4-103 and 10-7-503. **Administrative History:** Original rules filed March 13, 2019; effective June 11, 2019.

1670-07-01-.03 REQUESTING ACCESS TO PUBLIC RECORDS.

- (1) Public record requests shall be made to the PRRC or designee in order to ensure public records requests are routed to the appropriate custodian and fulfilled in a timely manner.
- (2) Proof of Tennessee citizenship is required as a condition to inspect or receive copies of public records. Proof of citizenship can be furnished by:
 - (a) Presentation of a valid Tennessee driver's license, or other state issued photographic identification card that includes the requestor's Tennessee address prior to the inspection of records or a requestor obtaining the records in person; or
 - (b) Submission of a request on business letterhead with the business address in Tennessee. Records will be sent to the Tennessee address on the letterhead and not to any other address; or
 - (c) Requestor may affirm Tennessee citizenship through the mechanisms of submission set out in Section (5) below. Additional identification may be requested if conflicting information about the requestor's residency is provided.
- (3) The Department of Tourist Development reserves the right to request additional identification of the validity of the identification presented or of the business address is in question. The requestor will be notified in writing, when possible, of the need for additional documentation.
- (4) A Requestor shall make a request for copies of Public Records in writing to the PRRC. When submitting a written request for copies, a Requestor may, but is not required to use the Public Records Request Form, located on the Department of Tourist Development website on the About the Department, Staff Directory Page, link below at Rule 1670-07-01-.03(5).
- (5) A Requestor may request access to Public Records maintained and received by the Department of Tourist Development by making a request in-person, by telephone, fax, mail, email or online portal, depending on whether the Requestor is asking to inspect or receive copies of the Public Records.

Department of Tourist Development
Attn: Public Records Request Coordinator
312 Rosa L. Parks Avenue, TN Tower, 13th Floor
Nashville, TN 37243
p: (615) 741-9065 f: (615) 741-9071
Tourism.OpenRecords@tn.gov
https://stateofkentucky.formstack.com/forms/tourism_public_records_request

- (6) Requests for inspection only are not required to be in writing.
- (7) A request for inspection or copying of a Public Record shall be sufficiently detailed to enable the Department to identify the specific records for inspection or copying.

Authority: T.C.A. §§ 4-4-103 and 10-7-503. **Administrative History:** Original rules filed March 13, 2019; effective June 11, 2019.

1670-07-01-.04 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (1) Upon receipt of a public records request(s), the PRRC will review the request and make a determination of the following:
 - (a) If the Requestor provided evidence of Tennessee citizenship, pursuant to Rule 1670-07-01-.03;
 - (b) If the records requested are described with sufficient specificity as to be identified;
 - (c) If the Department of Tourist Development is the custodian of the Public Records;
 - (d) If the records requested, or any of their contents, are not subject to disclosure based on applicable federal or state laws or rules; and
 - (e) If applicable, the Department of Tourist Development will inform the Requestor, in writing, of the reasonable copying and labor charges to produce copies and any determinations made regarding aggregation of multiple or frequent requests.
- (2) The PRRC shall acknowledge receipt of the request to the requestor and take any of the following appropriate action(s):
 - (a) Advise the requestor of this rule and the elections made regarding:
 1. Proof of Tennessee citizenship;
 2. Form(s) required for copies;
 3. Fees (and labor threshold and waivers, if applicable); and
 4. Aggregation of multiple or frequent requests.
 - (b) If appropriate, the request will be denied in writing and the ground(s) provided as one (1) of the following:
 1. The requestor is not, or has not presented evidence of being a Tennessee citizen;
 2. The request lacks specificity. The Department of Tourist Development may work with requestors to clarify the request;
 3. An exemption makes the record not subject to disclosure under the TPRA, and inform the requestor of the specific exemption;
 4. The Department of Tourist Development is not the custodian of the requested record; and/or
 5. The records requested do not exist.
 - (c) If appropriate, the requestor will be contacted to determine if the request can be specified and/or narrowed.
 - (d) If requested records are in the custody of a different government entity and the PRRC knows the correct governmental entity, the Requestor will be advised of the correct governmental entity and PRRC for that entity, if known.

(Rule 1670-07-01-.04, continued)

- (3) Upon receiving a public records request, a Department of Tourist Development records custodian in collaboration with the PRRC shall promptly make requested public record available. If the records custodian is uncertain than an applicable TPRA exemption applies, the custodian may consult with the PRRC of the Office of General Counsel.
 - (a) If not practicable to promptly provide requested records, a records custodian in collaboration with the PRRC shall, within seven (7) business days from the records custodian's receipt of the request, communicate with the requestor the reason for the delay and an estimate of the time necessary to produce the records or determine the proper response to the request because additional time is necessary:
 1. To determine whether the requested records exist;
 2. To search for, retrieve, or otherwise gain access to records;
 3. To determine whether the records are open;
 4. To redact records; or
 5. For other similar reasons.
 - (b) If a public records request is denied, the requestor shall be notified in writing.

Authority: T.C.A. §§ 4-4-103 and 10-7-503. **Administrative History:** Original rules filed March 13, 2019; effective June 11, 2019.

1670-07-01-.05 INSPECTION AND COPIES OF RECORDS.

- (1) There shall be no charge to inspect Public Records. Charges may be assessed for reasonable costs incurred in producing requested materials in accordance with Tenn. Code Ann. § 10-7-503(a)(5) and Tenn. Code Ann. § 10-7-503(a)(7)(c)(i).
- (2) If, after viewing the records, a requestor wishes to obtain copies, the Department of Tourist Development shall calculate cost based on the copy and labor charges for the entire request, and, if the requestor does not wish to obtain all records produced, shall pro-rate the charges on a per page basis.
 - (a) The Requestor will be allowed to make copies of personally inspected Public Records with his or her personal equipment, to include portable scanner, cell phone or camera;
 - (b) The Requestor will not be allowed to connect any personal equipment directly to a Department of Tourist Development computer or electronic device, including but not limited to, utilizing a flash drive, in order to make copies of Public Records.
- (3) If the Department of Tourist Development determines to fulfill the request, the Department shall promptly respond to a public records request for copies by making the copies available to the Requestor in the following manner:
 - (a) For pick-up at a location specified by the PRRC;
 - (b) By regular mail delivery through the United States Postal Service to the Requestor's home address or other acceptable address within Tennessee; or
 - (c) By electronic delivery of copies to an email address as provided by the Requestor.

(Rule 1670-07-01-.05, continued)

1. Records which include personally identifiable information cannot be sent by email.
2. Records which contain allowable personally identifiable information will only be provided by Secure File Transfer Protocol, if provided electronically.

Authority: T.C.A. §§ 4-4-103 and 10-7-503. **Administrative History:** Original rules filed March 13, 2019; effective June 11, 2019.

1670-07-01-.06 FEES, PAYMENT AND WAIVERS.

- (1) The Department of Tourist Development shall assess charges for the copying and labor required to produce copies of the requested Public Records based on the most current version of the Schedule of Reasonable Charges, issued by the Office of Open Records Counsel ("OORC"). The Schedule of Reasonable Charges is available on the Tennessee Comptroller of the Treasury's website on the OORC page.
- (2) The Department of Tourist Development shall provide a Requestor with a written, itemized estimate of the copying or labor charges prior to producing copies of records. The Requestor must agree, in writing, to pay the charges prior to the Department producing the Public Records. Payment in advance will be required before producing requested Public Records.
- (3) When charges for copies and labor do not exceed \$50.00, the charges may be waived by the PRRC.
- (4) Payment of charges shall be payable to the Department of Tourist Development in the form of cashier's check, money order, or other reliable means as determined by the Department of Tourist Development.
- (5) If an outside vendor is utilized to compile, review or redact Public Records in response to a public records request, then the Requestor will be charged the vendor's costs.
- (6) The Commissioner of the Department of Tourist Development or the Commissioner's designee, may waive or reduce any part of the fees calculated under these rules upon a written determination that such waiver or reduction would be in the best interest of the public.

Authority: T.C.A. §§ 4-4-103 and 10-7-503. **Administrative History:** Original rules filed March 13, 2019; effective June 11, 2019.

1670-07-01-.07 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.

- (1) The Department of Tourist Development will aggregate record requests in accordance with the Reasonable Charges for Frequent and Multiple Requests promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed to be working in concert. Records requests will be aggregated at the Department of Tourist Development level.
- (2) The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC 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 Office of Open Records Counsel.

Authority: T.C.A. §§ 4-4-103 and 10-7-503. **Administrative History:** Original rules filed March 13, 2019; effective June 11, 2019.

1670-07-01-.08 FAILURE TO INSPECT COPIES OR FAILURE TO PAY.

- (1) If a Requestor makes two (2) or more requests to view a Public Record within a six (6) 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, the Department of Tourist Development is not required to 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 it is determined the failure to view the Public Record was for good cause.
- (2) If a Requestor makes a request for copies of a public record and, after copies have been produced, the person fails to pay the Department of Tourist Development the cost of producing such copies, the Department of Tourist Development is not required to comply with any public records request from the person until the person pays for such copies; provided that the person was provided with an estimated cost for producing the copies in accordance with state law and these rules prior to producing the copies and the Requestor agreed to pay the estimated cost for such copies.

Authority: T.C.A. §§ 4-4-103 and 10-7-503. **Administrative History:** Original rules filed March 13, 2019; effective June 11, 2019.