



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Confidential Records

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Table of Contents

Confidential Records	3
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Confidential Records

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In general, city employees' personnel records and most other city documents are subject to public inspection under the Tennessee Public Records Act. Some exceptions that affect local government are:

- Employee assistance program records that apply to counseling or referrals for mental health, marriage, alcoholism, and similar personal problems may remain confidential if they are maintained separately from personnel records. T.C.A. § 10-7-504(d).
- Personal cell phone and home phone numbers, bank account information, Social Security numbers, and driver's license information (except when driving is part of or incidental to the employee's job), emergency contact information, residential street addresses and personal, non-government issued email addresses of applicants, current and former employees are confidential; the same information for the employees' immediate family members and household members is confidential. T.C.A. § 10-7-504 (f)(1).
- City hospital medical records and records of patients receiving medical treatment paid for by a municipality are confidential. T.C.A. § 10-7-504(a)(1). (The Americans with Disabilities Act requires that all employee medical records be confidential and kept in a separate file.)
- Library records identifying a person who requested or obtained specific materials are not open to the public. T.C.A. § 10-8-102.
- Financial statements filed by cities as evidence of their ability to pay workers' compensation claims are confidential. T.C.A. § 50-6-405(b)(3).
- Certain "books, records, and other materials in the possession of the Office of the Attorney General and Reporter which relate to any pending or contemplated legal or administrative proceeding in which the Office of the Attorney General and Reporter may be involved" are not open to public inspection. T.C.A. § 10-7-504(a)(5).
- All files, reports, records, and papers relative to child abuse investigations are confidential. T.C.A. § 37-1-612.
- The Tennessee Rules of Criminal Procedure contains a section that "does not authorize the discovery or inspection of reports, memoranda, or other internal state documents made by the district attorney general or other state agents or law enforcement officers in connection with the investigation or prosecution of the case or of statements made by state witnesses or prospective state witnesses" (Tenn. R. Crim. P. 16(a)(2)). This rule is an exception to the rule of discovery, which requires the state to allow a "defendant to inspect and copy or photograph any relevant written or recorded" statements, records, objects, etc., that are material to the defense's preparation (Tenn. R. Crim. P. 16(a)(1)).^[1]
- *Arnold v. City of Chattanooga*, 19 S.W.3d 779 (Tenn. Ct. App. 2000) (permission to appeal denied June 19, 2000) holds that a city attorney's work product prepared in anticipation of litigation or in preparation for trial is confidential and is not subject to disclosure under the Public Records Act.
- Unpublished phone numbers possessed by emergency communications districts are confidential until there is a contract to the contrary between the telephone customer and the service provider, T.C.A. § 10-7-504(e).
- Information about law enforcement officers, firefighters, emergency medical technicians, correction officers, dispatchers and paramedics who seek help for job-related critical incidents through group counseling sessions led by mental health professionals is privileged and is not subject to disclosure unless the privilege is waived. This includes all memoranda, work notes, work products, case files, and related communication. T.C.A. § 10-7-504(a)(13)(A).
- Certain taxpayer information, returns, reports, and audits are confidential. T.C.A. § 67-2-108, T.C.A. § 67-4-722, T.C.A. § 67-5-402, T.C.A. § 67-1-1702.
- The identity of an informant who provides information resulting in an eviction for violation of drug laws or for prostitution is confidential. T.C.A. § 66-7-107.

- Home and work telephone numbers, addresses, social security numbers, and any other information that could be used to locate an individual who has a protection or restraining order are not (utility) and may not be (other governmental entities) open to the public. Such an individual may request this protection and present a copy of the order to the record keeper of the municipality or utility. T.C.A. § 10-7-504(a)(15) and T.C.A. § 10-7-504(a)(16).
- Any information pertaining to the location of a domestic violence shelter, family safety center, rape crisis center, or human trafficking service provider is confidential when the director requests such in writing. T.C.A. § 10-7-504(a)(17).
- Security codes, plans, passwords, combinations, and computer programs used to protect electronic information and government property are confidential. T.C.A. § 10-7-504.
- Filing documents required in order of protection cases, except forms required by the courts, are confidential but may be transmitted to the TBI, emergency response agency, or law enforcement agency. T.C.A. § 10-7-504(a)(16).
- Records that would allow a person to identify areas of vulnerability of a utility service provider or that would permit unlawful disruption of utility service are confidential. Documents relative to costs of utility property or its protection are not confidential, but confidential information must be redacted when the record is made public. This provision does not limit access to these records by other government agencies performing official functions nor does it preclude any governmental agency from allowing public access to these records in performing official functions. T.C.A. § 10-7-504(a)(21).
- Contingency plans for responding to terrorist acts are confidential. T.C.A. § 10-7-504(a)(21).
- Credit card numbers, social security numbers, tax identification numbers, financial institution account numbers, burglar alarm codes, security codes, consumer-specific energy and water usage data except for aggregate monthly billing information, and access codes of utilities are confidential. This information must be redacted when possible when the rest of the record is made public. The requester must pay the costs of redaction. T.C.A. § 10-7-504(a)(20).
- Photographs and recordings of juveniles by law enforcement officers are confidential. T.C.A. §§ 37-1-154 and 37-1-155.
- Financial records filed for income verification under the local option property tax freeze are confidential. T.C.A. § 67-5-705.
- Competitive sealed proposals are confidential until the intent to award is announced. Then the proposals will be open to public inspection. T.C.A. § 12-3-1207.
- Records addressing marketing strategies and strategic plans of public hospitals are confidential until seven days before the strategies and plans are adopted. T.C.A. § 68-11-238.

[1] The Tennessee Supreme Court, in *Schneider v. City of Jackson*, 226 S.W. 3d 332 (Tenn. 2007), held that the common-law law enforcement privilege does not apply in Tennessee. Therefore, police officers' field interview cards and other investigative records not protected by this rule may be open for public inspection.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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