



Municipal Records Categories

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://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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Municipal Records Categories

Reference Number: MTAS-435

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Business and Financial Records

Reference Number: MTAS-436

There are a number of provisions within the Tennessee Code that make certain business and financial records confidential. Some of these exceptions include:

- T.C.A. § 6-54-142 makes any contract or agreement that obligates public funds as part of a municipality's economic and community development program to assist new and existing businesses and industries, together with all supporting documentation, accessible to the public as of the date the contract or agreement is made available to the members of the governing body, but not before that time. Requires the governing body to publicly disclose the proposed contract or agreement in a manner that will fairly inform the public of the proposed contract or agreement before the vote. Requires trade secrets received to be maintained as confidential. Also requires marketing information and capital plans that are provided with the understanding that they are confidential to be maintained as such until the provider of the information no longer requires the information to be maintained as confidential.
- T.C.A. § 10-7-504(a)(19) makes credit card numbers and related PIN numbers or authorizations codes in the possession of a municipality confidential.
- T.C.A. § 10-7-504(a)(20) makes the "private records" of consumers maintained by a municipal utility confidential. Private records is defined to include "credit card number, social security number, tax identification number, financial institution account number, burglar alarm codes, security codes, access codes, and consumer-specific energy and water usage data except for aggregate monthly billing information."
- T.C.A. § 10-7-504(a)(22) makes the "audit working papers" of the Comptroller's office and municipal internal audit staff confidential. Audit working papers is defined to include, "auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda and all other records relating to an audit or investigation."
- T.C.A. § 67-4-722 provides that only the name and address of any current or former owner of a business, as the information appears on any business license or application, is accessible to the public.
- T.C.A. § 67-1-1702 provides that any tax return filed or submitted with the Commissioner of Revenue or tax information or tax administration information received by, recorded by, prepared by, furnished to, or collected by the Commissioner.

Election and Voter Registration Records

Reference Number: MTAS-437

Generally, election and permanent voter registration records are open to public inspection. The Tennessee Court of Appeals held, in *Chattanooga Publishing Co. v. Hamilton Co. Election Comm'n*, No. E2003-00076-COA-R3-CV, 2003 WL 22469808, (Tenn. Ct. of App. Oct. 31, 2003), that election records are accessible to the public, unless covered by a confidentiality provision, even when they become part of a TBI investigation, if they were requested prior to the investigation.

There are, however, a few exceptions in State law that make specific types of election records confidential. T.C.A. § 2-11-202(a)(5) protects reports generated as the result of an investigation into potential election law violations. Additionally, Article IV, Section 4 of the Tennessee Constitution provides that all elections, except those made by the General Assembly, "shall be by ballot". The Tennessee Supreme Court, in *Mooney v. Phillips*, 118 S.W. 2d 224, 226, (Tenn. 1938) stated, "the prime objective of constitutional provisions that voting shall be by ballot is to insure secrecy to the voter in expressing his choice as between candidates." Based upon this language, the manner in which a registered voter votes in an election is also confidential.

Personnel Records

Reference Number:

MTAS-438

Personnel records clearly fall under the Act's definition of public record and are thus accessible to the public. Salary information, disciplinary records, and employment applications are all open for public inspection, subject to any required redaction. Other personal information such as Social Security numbers and bank account and routing numbers, medical records, and driver's license information is confidential and should never be released. Almost every personnel file contains confidential information. This is why original personnel records should never be released. Instead, even where a requestor only requests inspection, a copy of the requested records should be made, and all confidential information should be redacted before inspection occurs.

The following is a non-exhaustive list of provisions that make certain records and information included as part of an employee's personnel record confidential:

- T.C.A. § 10-7-504(a)(13) makes all records and communications related to mental health intervention techniques conducted by mental health professionals in a group setting to provide job-related critical incident counseling and therapy to law enforcement officers, municipal correctional officers, dispatchers, EMTs, EMT-Ps, and firefighters, both volunteer and professional, confidential.
- T.C.A. § 10-7-504(f) makes the following records maintained by a municipality in its capacity as an employer confidential, and only accessible in limited circumstances:

(A) Home telephone and personal cell phone numbers;

(B) Bank account and individual health savings account, retirement account and pension account information; provided, that nothing shall limit access to financial records of a governmental employer that show the amounts and sources of contributions to the accounts or the amount of pension or retirement benefits provided to the employee or former employee by the governmental employer;

(C) Social security number;

(D)(i) Residential information, including the street address, city, state and zip code, for any state employee; and

(ii) Residential street address for any county, municipal or other public employee;

(E) Driver license information except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of the employee's job;

(F) The information listed in subdivisions (f)(1)(A)--(E) of immediate family members, whether or not the immediate family member resides with the employee, or household members;

(G) Emergency contact information, except for that information open to public inspection in accordance with subdivision (f)(1)(D)(ii); and

(H) Personal, nongovernment issued, email address.

- T.C.A. § 10-7-504(d) makes the records related to any employee's identity, diagnosis, treatment or referral for treatment maintained by a municipality's employee assistance program (EAP) confidential.
- T.C.A. § 50-9-109 makes drug and alcohol testing information received by an employer participating in the Drug-Free Workplace Program confidential.
- T.C.A. § 10-7-504(a) makes the medical records of any individual receiving medical treatment, in whole or in part, at the expense of the State or the municipality, confidential.

Police Personnel Records

Reference Number: MTAS-439

Some of the most commonly requested personnel records are those of law enforcement officers. The personnel records of law enforcement officers are also less accessible to the public than the personnel files of any other group of public employees.

When a request is made to inspect or receive copies of the personnel records of a law enforcement officer, the municipality must, within three days of the inspection taking place or the copies being provided, notify the officer whose records were requested. The notice must say that copies were provided or an inspection took place and include the name, address, and telephone number of the person making the inspection; for whom the inspection was made; and the date of the inspection. (T.C.A. § 10-7-503(c)).

Additionally, while the personnel records of law enforcement officers are subject to the exception in T.C.A. § 10-7-504(f) that covers all public employees, the records are also subject to the exception found in T.C.A. § 10-7-504(g) that is specific to law enforcement officers. T.C.A. § 10-7-504(g)(1)(A) allows the police chief to "segregate" information about any officer working undercover and maintain as confidential "personal information" about any officer and his or her immediate family, when there is a reason not to disclose the personal information. Personal information is defined to include, "the officer's residential address, home and personal cellular telephone numbers; place of employment; name, work address and telephone numbers of the officer's immediate family; name, location, and telephone number of any educational institution or daycare provider where the officer's spouse or child is enrolled." T.C.A. § 10-7-504 (g)(1)(A)(ii) requires the chief or the chief's designee to make a determination as to the accessibility of personal information "when a request to inspect includes such personal information *and the request is for a professional, business, or official purpose*"

(emphasis added). However, under Tennessee law, a requestor does not have to state his or her purpose for requesting records. As such, municipalities should have the police chief make the determination *every time* a request is made for a law enforcement officer's personnel records, if the records contain personal information. The police chief should decide, what, if any, personal information should be redacted prior to inspection or copying of the records.

If the police chief decides to withhold any information, he or she must give specific justification in writing to the requestor within two (2) days and release the redacted records. If the police chief decides there is no justification for keeping the personal information confidential, the officer must be notified and given reasonable opportunity to oppose the release. When the request is from a business entity, it must also include the name and contact information for a supervisor for verification.

Law Enforcement Records

Reference Number: MTAS-440

While law enforcement records are generally open to public inspection, exceptions have been enacted to safeguard certain law enforcement records. Some of the exceptions include:

- Tenn. R. Crim. P. 16(a)(2) which provides that all records related to an ongoing criminal investigation or prosecution may be maintained as confidential until the conclusion of the criminal action. *Tennessean v. Metropolitan Government of Nashville*, 485 S.W. 3d 857 (Tenn. 2016) and *Schneider v. City of Jackson*, 226 S.W. 3d 332 (Tenn. 2007).
- T.C.A. § 10-7-504(t) provides that when a minor is the victim of a criminal offense, the minor's name, unless a parent or guardian waives confidentiality of the name, home, work and electronic mail address, telephone numbers, Social Security number, any photo or video depiction of the minor, and whether the defendant is related to the minor, unless the relationship is an essential element of the offense, is confidential.
- T.C.A. § 10-7-504(u) makes the recordings from body-worn cameras that capture minors, when taken inside of a school that serves any grades from K-12, the inside of a facility licensed under Title 33 or Title 68, or the interior of a private residence that is not being investigated as part of a crime scene confidential.
- T.C.A. § 37-1-154 makes the law enforcement records related to a juvenile whose case will be prosecuted in juvenile court confidential.

School and University Records

Reference Number: MTAS-441

Records of students currently enrolled in public schools, including academic, financial, and medical records, are confidential. However, statistical information not identified with a particular student may be released. Additionally, information relating only to an individual student's name, age, address, dates of attendance, grade levels completed, class placement, and academic degrees awarded may be disclosed. T.C.A. § 10-7-504(a)(4). The Family Educational Rights and Privacy Act (FERPA), found in 20 U.S.C. § 1232 includes similar language.

Safety and Security Records

Reference Number: MTAS-442

- T.C.A. § 10-7-504(a)(15) makes the "identifying information" of any individual who has a valid order of protection or similar protection document confidential when maintained by a utility service provider, if the individual asks that his/her identifying information be maintained as confidential and provides a copy of the order to be kept on file with the utility. Identifying information is defined to include "home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual." Similar language is found in T.C.A. § 10-7-504(a)(16) for all other governmental entities, except that maintaining identifying information as confidential is discretionary in that provision, instead of mandatory.
- T.C.A. § 10-7-504(a)(17) makes the telephone number, address and any other information that could be used to locate a domestic violence shelter, family safety center, rape crisis center, or human trafficking service provider confidential when the information is maintained by a utility service provider and provides other governmental entities with the discretion to maintain the information as confidential.
- T.C.A. § 10-7-504(a)(21)(A)(i) provides that records that would allow a person to identify areas of structural and operational vulnerability of a utility or would permit unlawful disruption to, or interference with, the services provided by a utility are confidential.

- T.C.A. § 10-7-504(a)(21)(A)(ii) provides that all contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident are confidential.
- T.C.A. § 10-7-504(a)(29) prohibits a municipality from publically disclosing “personally identifying information” about any citizen of Tennessee, unless the citizen consents, disclosure is authorized under federal or state law or disclosure is made to certain financial institutions or consumer reporting agencies under federal law. Use of personally identifying information is permitted by governmental entities when performing official functions and disclosure is permitted to other governmental entities or private individuals contracting with a governmental entity. Personally identifying information is defined to include social security numbers, official state or government issued drivers licenses or identification numbers, alien registration numbers or passport numbers, employer or taxpayer identification numbers, unique biometric data, such as fingerprints, voice prints, retina or iris images, or other unique physical representations, and unique electronic identification numbers, routing codes or other personal identifying data which enables individuals to obtain merchandise or service or to otherwise financially encumber the legitimate possessor of the identifying data.
- T.C.A. § 10-7-504(m) makes information and records directly related to the security of a municipal building confidential. This includes information and records about alarm and security systems used at a municipal building, security plans, including security-related contingency planning and emergency response plans, assessments of security vulnerability, information and records that would identify areas of structural or operational vulnerability or permit unlawful disruption to, or interference with, the services provided by the municipality, and surveillance recordings; except that portions of the recordings may be made public when they capture an incident related to public safety or security or criminal activity.

Utility Records

Reference Number: MTAS-1592

A public utility commonly possesses confidential information regarding its customers. This information including, credit card numbers, Social Security numbers, account numbers, security codes, and other identifying information in the hands of a utility must be redacted prior to the release of any public record. Furthermore, consumer-specific energy and water usage data is confidential, except aggregate monthly billing information is open to public inspection. Thus, a customer’s monthly usage is open but a breakdown by date and time is not.

When a customer provides the utility with a copy of a valid protection order and requests that his/her identifying information be maintained as confidential, all identifying information for the customer in the possession of a private or public utility service provider that could be used to locate the customer is to be maintained as confidential and is not open to the public.

Records of a utility that would identify areas of vulnerability or allow disruption of utility service are likewise confidential.

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